The Fatal Countess

And Other Studies

By

WILLIAM ROUGHEAD

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THE FATAL COUNTESS

AND OTHER STUDIES

BY THE SAME AUTHOR

TWELVE SCOTS TRIALS
THE RIDDLE OF THE RUTHVENS
GLENGARRY'S WAY

In "Notable Trials Series"

DR PRITCHARD
DEACON BRODIE
CAPTAIN PORTEOUS
OSCAR SLATER
MRS M'LACHLAN
MARY BLANDY
BURKE AND HARE

The portraicture of Robert Carr Earle of Somerset Vicount Rochester Knight of the most
noble order of the Garter &c. And of the Ladie Francis his wife

THE EARL AND COUNTESS OF SOMERSET.

(From a rare print by Elstracke in the British Museum.)

Frontispiece.

THE FATAL COUNTESS

AND OTHER STUDIES

BY

WILLIAM ROUGHEAD

AUTHOR OF
"GLENGARRY'S WAY," "THE RIDDLE OF THE RUTHVENS,"
"TWELVE SCOTS TRIALS," ETC.

WITH NINE ILLUSTRATIONS

And what of this new book the whole world makes such a rout about?—Oh! 'tis out of all plumb, my Lord,—quite an irregular thing!—not one of the angles at the four corners was a right angle.—I had my rule and compasses, etc., my Lord, in my pocket.—Excellent critic!

The Life and Opinions of Tristram Shandy, Gentleman.

NEW YORK

E. P. DUTTON & COMPANY

681 FIFTH AVENUE

TO

NEIL MUNRO

IN ADMIRATION
IN GRATITUDE

PREFACE

I NEVER liked prefaces. Generally speaking, they are polite, insincere, and ceremonious, as the discharge of a purely formal function is apt to be. I seldom read them myself, so it seems hard that I should have to write them; but, being unfortunately pledged to this one, I assume reluctantly the burden of my obligation.

My readers and I, I am glad to believe, are by this time sufficiently well acquainted to dispense with any appeal on my part for their patience, forbearance, or charity. "Friends should not insist upon ceremonies," as Captain Macheath remarks; and I had thought of prefixing in this place that engaging rascal's greeting of his gang: "Gentlemen, well met. My heart hath been with you this hour. . . . No ceremony, I beg you." But, had I left it at that, I feared I might have given occasion for the enemy to blaspheme—even the most inoffensive author not being exempt from the malice of the froward—by insinuating that while I likened myself, justly enough, to a highwayman, I audaciously compared my readers to a company of rogues. Now, obviously, none is more concerned than a writer to retain his readers' favour, and I would be the last to incur the risk of such misrepresentation. No reader of mine, howsoever self-respecting and important, can think better of himself than I of him, and my constant aim is to minister to his enjoyment and to earn his praise. Yet here, with Counsellor Crossmyloof, "I take a distinction." Consumers of books are of two sorts. First, those, unhappily the vast majority, who seek their pasture in the circulating libraries, so that a single volume, like the miraculous loaves and fishes, furnishes a meal for many, without appreciable gain to

the producer; and secondly, that acute and honourable minority who purchase their provender to digest at leisure, and return, it may be with added appetite, to a resumption of the repast. Of such is the salt of the earth; these are the readers *par excellence*, to whom the author's hospitable heart warms amain, as that of a genial landlord to discriminative guests. Of course, in the good old times before the War, far more people bought books, because these were cheaper and, materially, better than they are to-day. Still, even then, I often marvelled why so many folks, who spend money freely enough on less enduring joys, are shocked by the suggestion that they should actually *buy* a book. Observe, I speak at large, and in the general interest; were I but pleading my own cause I might be met by a relevant exception touching the value of the commodity.

And now, having aired this ancient grievance, a word or two as to the contents of my pack. It is, I admit, rather a mixed bag, yet I would fain hope there may result from such variety something to take captive the reader's fancy. I am a slow worker: like John Webster, "I confesse I do not write with a goose-quill, winged with two feathers," and in these days of popular criminology, when one book will boldly profess to deal with scores of famous cases, my modest output may seem meagre. But there are other qualities besides pace and quantity, and having no desire to emulate such cinematical and flash-light performances, I adhere to my less dazzling methods. I have made "The Fatal Countess" the title-piece, not because she is my own favourite, but in deference to the judgment of an eminent hand, who considers her the best of the bunch. My old friend King Jamie figures here again, as usual in equivocal guise; and for the other persons of the drama, all one can say of them is that they were very suitable subjects for so unpalatable a prince. The presentment of Jacobean morals and manners involved, if unedifying, is at least of considerable historic value; and the general scene evoked by the quaint details

of these old records gives a wonderfully graphic picture of the time.

Of the purely Scots studies, "Indian Peter" is, in my opinion, entitled to bear the bell. Had he not been kidnapped, "a little boy, going with a clipped head," upon the quay of Aberdeen, we had known less of the amazing traffic of which he was the victim. Peter could boast with St. Paul that he was in journeyings often, in perils of waters, in perils of robbers, in perils by his own countrymen, in perils by the heathen, in perils in the city, in perils in the wilderness; and he gratuitously added to this woeful apostolic catalogue the perils of matrimony. Few men, indeed, have had a pilgrimage more varied or have affronted fortune with a stouter heart than the pioneer of Edinburgh's penny-post and street directory. Of the manifold entertainments his adventures provide, the one I like best is the arbitration before the crapulent Sheriff-Substitute of Aberdeenshire, a devotee more catholic in his cups than Mrs. Diana Trapes, who, you remember, was "always very curious in her liquor." Dominie Kirkwood owes his revival to the appreciation by a discerning critic of his former narrative, elsewhere recounted by me, and I can only trust that his new experiences at Kelso may prove no less intriguing than his original persecution at Linlithgow. Together they form an instructive and authentic record of the ongoings of the godly in seventeenth-century Scotland. For the case of Dr. Wielobycki I have, as will appear upon perusal, a peculiar and sentimental weakness; but though by no means a Scots *cause célèbre*, it has merits enough of its own to justify narration. I suppose I should apologise for including in this connection the paper on *The Entail*, which differs from the rest in respect that its appeal is wholly literary. Notwithstanding the fact that John Galt was once imprisoned in the King's Bench for debt, it would be unfair to take a merely technical advantage of his misfortune in that regard, and I desire so far as may be to dissociate him here from the evil companionship of his criminous neighbours.

There remain the English and Irish cases, respectively two and one. The proportion is not to be held as representing the relative naughtiness of the contributing countries, but as due solely to my individual taste. The affair of Captain Donellan affords a fine example of an eighteenth-century murder trial, and his story in itself is, in the vile newspaper phrase, of absorbing interest. Personally, I have no doubt of his guilt, though that has been disputed. The matrimonial overtures of Miss Smith will, I hope, be found by the reader as diverting as they were to the writer: I shall ever recall with pleasure my association with that attaching damsel. The tale of her so intricate affections could only be rendered adequately by the pen of a Miss Austen, and indeed her delightful letters would do no discredit to the creation of the matchless Jane. The Kirwan case concerns as picturesque a murder as it is possible to conceive—murder, I say: for though there was a great to do about a miscarriage of justice, I am persuaded that the conviction was sound. All the same, having dealt thus freely with so vexed a question, I am determined never more to visit Ireland, lest I should encounter someone holding the contrary opinion and prepared to back it with a gun.

And so, for the time, I bid the reader heartily farewell, wishing that our relations, hitherto friendly, may at no distant date be resumed to our mutual satisfaction; and at parting I would quote the words of the admirable Mr. Adlington, as prefixed to his unique translation of *The Golden Asse* of Apuleius: "But how so ever it be (gentle Reader) I pray thee take it in good part, considering that for thee I have taken this paine, to the intent that thou maist Reade the same with pleasure."

William Roughead.

12 Belgrave Crescent, Edinburgh.
June 1924.

CONTENTS

	PAGE
The Fatal Countess: A Footnote to "The Fortunes of Nigel"	1
Mr Kirkwood and the Kirk; or the Holy War	45
Laurel Water; or the Wicked Brother	77
"Indian Peter": An Old Edinburgh Portrait	115
The Ambiguities of Miss Smith: A Romantic Tale	149
The Secret of Ireland's Eye: A Detective Story	185
Physic and Forgery: A Study in Confidence	225
A Gossip on a Novel of Galt's	259

ILLUSTRATIONS

The Earl and Countess of Somerset	*Frontispiece*	
Mrs Anne Turner	*To face page*	14
Captain John Donellan	„	80
Sir Theodosius Edward Allesley Boughton, Bart.	„	86
Lawford Hall, Warwickshire	„	96
Peter Williamson	„	120
The Long Hole, from the West, High Water	„	196
The Long Hole, from the East, Low Water	„	196
John Galt, the Author of "The Entail"	„	282

THE FATAL COUNTESS:

A FOOTNOTE TO "THE FORTUNES OF NIGEL"

THE FATAL COUNTESS:

A Footnote to "The Fortunes of Nigel"

> Right: they are plots.
> Your beautie! O, ten thousand curses on't!
> How long have I beheld the devill in christall?
> Thou hast lead mee, like an heathen sacrifice,
> With musicke and with fatall yokes of flowers,
> To my eternall ruine.
>
> —*The White Devil.*

AS a lover of Elizabethan drama in general and of John Webster's splendid contribution to it in particular, I have often wished that fine poet had written a play on the murder of Sir Thomas Overbury. We know less of Webster personally than about any of his great contemporaries; the dates of his birth and death are both conjectural, and indeed the only definite dates in his life are those on the title-pages of his plays. But from these it is plain that the action of this dark tragedy must have gone forward before his living eyes. In 1612 he published *The White Devil*, and in the following year his elegy on the death of Prince Henry; in 1623, *The Duchess of Malfy* and *The Devil's Law Case.* Now, the poisoning of Overbury in the Tower, the scandalous divorce, and the amazing marriage all occurred in 1613, while the trial of Somerset and his countess for the murder took place in 1616. Probably, however, none of the dramatists then ransacking the universe for subjects was bold enough to tackle the intriguing matter thus lying ready to hand. King James was too exclusively King James for anyone to run that risk. The Overbury business, as M. de la Boderie remarked of the Gowrie affair, was "a little aromatic, and told different ways"; the good King's connection with it could not be handled with impunity.

For the *dramatis personæ* there is his Most Sacred

Majesty King James the First and Sixth. James was much more than the mere pedantic pantaloon of *The Fortunes of Nigel*: he was "the wisest to work his own ends that ever was before him." (*a*) He was also the son who abandoned to her fate his mother Mary Stuart; the kinsman who held his cousin Arabella captive till she went mad and died; the prince who repaid England's debt to Raleigh by spoliation, imprisonment and death; the guest who caused his boy hosts the Ruthvens to be butchered in their own house, and immured their child brother in the Tower for forty years; the friend who, Judas-like, betrayed his discarded Pythias with a kiss. There is the King's favourite himself, Robert Carr, that sumptuous young Scot, who rose from pagedom to peerage, became the virtual ruler of England, and fell from place and power for love of a wicked woman. There is the Lady Frances Howard, beautiful and evil, for whom I had nearly borrowed a title from Marston: "The Insatiate Countess"; corrupt as Webster's own Vittoria, merciless as the Marquise de Brinvilliers. There is Sir Thomas Overbury, scholarly and subtle, the real power behind the imposing figure of the Favourite, sacrificed despite his craft to a Court intrigue and the fury of a woman scorned. These are the principal parts; for minor characters we have Mistress Anne Turner, wise woman and bawd; Doctor Forman, a knavish necromancer; Paul de Lobell, a French apothecary; Sir Theodore Mayerne, his Majesty's physician; the Earl of Northampton, Lord Privy Seal; Sir Thomas Monson, Master of the Armoury; and Sir Gervase Elwes, the Lieutenant of the Tower. Bishops, bravoes and panders, poison-mongers and magicians, supply the chorus.

Here surely was a company which ought to have appealed to Webster. But he would bear in mind how in 1604 his friends Chapman, Marston and Ben Jonson had been cast into prison, and hardly escaped mutilation, for a

(*a*) Memorandum by Sir George More, who succeeded Sir Gervase Elwes as Lieutenant of the Tower.—*Archæologia*, vol. xviii.

playful allusion to ubiquitous Scots and a line in parody of the Royal accent;(*a*) and if his knowledge of Scottish history extended so far, he would recall how in 1601 a sheriff officer was hanged at the Cross of Edinburgh by Royal command, for having at a public roup inadvertently exposed the King's portrait upon a nail in the gibbet, the gibbet itself being condemned to the fire.(*b*) So we cannot wonder if Webster hesitated to use the Great Oyer of Poisoning as material for that "true drammaticke poem," that "sententious tragedy," in which he might have immortalised the facts, and we must be content to digest as best we may, with what illustrative sauce we can provide, the plain, substantial fare set forth for us by the laborious Howell.(*c*) Strong and solid meat this, not comfortably to be compassed by queasy stomachs. But I have thought that a glance at the menu, a mere epitome of the feast, though pretending to no critical or culinary value, might in these days of substitutes prove more easy of assimilation.

"Oh! it was a naughty Court," this Court of King James, as pictured for us in the pages of contemporary annalists; even a naughtier than that of his Merrie Grandson, and a much more vulgar. A monarch who knew not soap neither regarded water, and whose other personal peculiarities were equally objectionable; who accepted the dedication of the Bible, and wrote the curious letters to his beloved "Steenie." Curled and scented minions who ruled their doting master, and dispensed Court favours like so many small kings. Fine ladies, whose faces, plastered with paint, seemed mere masks; imperfectly acquainted with the Decalogue, clause seven, and for whom "the holy estate of Matrimony made but a May game." A new nobility, parasitic, prodigal and rapacious; "Faith and Honesty and other good acts little set by," and, generally, a moral tone comparable only to that of the Cities of the Plain. "O the Court, the Court!" exclaimed Mrs. Turner,

(*a*) *Eastward Hoe!* Act III. Sc. iii.; Act IV. Sc. i.

(*b*) Pitcairn, *Criminal Trials*, ii. 351. (*c*) *State Trials*, ii. 786–862; 911–1022.

who certainly was no purist. "God bless the King and send him better servants about him, for there is no religion in the most of them, but malice, pride, whoredom, swearing, and rejoicing in the fall of others. It is so wicked a place as I wonder the earth did not open and swallow it up. Mr. Sheriff, put none of your children thither." (*a*) This, to be sure, was after her own conviction of similar backslidings, when her point of view had undergone a change.

Who killed Sir Thomas Overbury? That he was the victim of a murderous conspiracy, and that the Countess did her best to poison him, for which attempts Weston, Mrs. Turner, Elwes, and Franklin suffered death, is not disputed. But some authorities have held that there was another and a deeper plot by which the crime was actually effected, a plot conceived by King James himself and carried out by his French physician Mayerne, through the venal apothecary Lobell; Somerset and Northampton, Monson and the doctors, being cognizant of both enterprises, while the Countess and her bungling agents were made scapegoats for the more capable and distinguished criminals. Thus, according to the familiar formula of Elizabethan drama, there was both plot and underplot in the same play. The whole business is complicated and mysterious beyond the common puzzles of history; compared to this farrago of obscure and double motives, witchcraft and poisons, the affairs of Gowrie and of Sir Edmund Berry Godfrey are but the machinations of children, and the Gunpowder Plot a parlour riddle. If it was in fact of the King's contrivance this is unquestionably James's masterpiece, but the trail is too skilfully confused to afford the satisfaction of bringing it home to him.(*b*)

The curtain rises upon a "Masque of Hymen," written by Ben Jonson and designed by Inigo Jones, presented, on 5th January 1606, before their Majesties and the Court

(*a*) Amos, *The Great Oyer of Poisoning*, p. 221.

(*b*) See A. C. Ewald's admirable study of the case, "A Perished Kernel," in his *Stories from the State Papers*, 1882, ii. 42-72.

at the marriage of Robert Devereux, Earl of Essex, with the Lady Frances Howard. The maskers, played by courtiers, included, appropriately enough, certain characters representing Perverse Affections, afterwards routed by Reason; but as the contracting parties were children of fourteen and thirteen, Reason had less to do with the matter than family ambition. The bridegroom was the son and successor of Elizabeth's unlucky favourite; the bride, a daughter of Thomas Howard, Earl of Suffolk, Lord Chamberlain, and grandniece of Henry Howard, Earl of Northampton, Lord Privy Seal. These noblemen were respectively son and brother to that Duke of Norfolk, of Elizabeth's subjects

> . . . not the first who found
> The name of Mary fatal,

who lost both heart and head for love of a captive queen. The marriage, though binding in law, was limited to the ceremony: even the Court of King James saw the impropriety of carrying matters further; so the bridegroom was straightway sent abroad to learn the art of war, while the bride, like Diane de Castro, returned to her dolls. What the children thought of it all is not recorded.

The next scene is the Tilt Yard at Whitehall; the time 1607, the occasion, a grand tilting match arranged by splendid Sir James Hay, "a Scotch man and a Favourite of the King's," at which his new page, just arrived from France, was to carry his device to the Sovereign, "according to the custome of those pastimes used." The fortunate youth thus distinguished owed his preferment to his nationality and good looks. He was one Mr. Robert Ker —*anglicè* Carr—son of Sir Thomas Ker of Ferniehurst in Roxburgh, an old adherent of Queen Mary and a man of weight in Scotland. The lad was "about twenty years of Age; a comely personage, mixt with a handsom and Courtly garb." (*a*) As bearing his master's shield he rode proudly up to the dais, his unusual grace and beauty struck

(*a*) Wilson, *Life and Reign of King James*, 1653, p. 64.

all beholders; and James, "whose nature and disposition," Lord Clarendon suavely observes, "was very flowing in affection towards persons so adorned," shared the general interest.(*a*) Just as the handsome page was dismounting to perform his office, his horse started and threw him, breaking his leg in the fall. His Majesty, graciously concerned, sent to ask who he was, and learning that he was Scots and a Ker, remarked that he himself had when in Scotland a page of that name, "which this proved to be." So by Royal command the injured lad was lodged in the palace and his hurt attended by the King's mediciners. His Majesty took the greatest interest in the case, daily visited the patient throughout his illness, taught him Latin every morning (which no doubt contributed not a little to his rapid convalescence), and upon his happy recovery appointed him a Gentleman of the Bedchamber.

It was soon known throughout the Court that the office of King's Favourite had changed hands. "Then the English lords, who formerly coveted an English favourite, (and to that end the Countesse of Suffolke did look out choyse young men, whom she daily curled, and perfumed their breaths,) left all hope, and she her curling and perfuming, all adoring this rising sun, every man striving to investe himselfe into this man's favour, not sparing for bounty nor flattery." (*b*) The estimable matron above mentioned was afterwards rewarded for her pains by becoming the mother-in-law of the successful candidate.

Henceforth Robert Carr's fortune was assured. The King could refuse him nothing, "even unto the half of his kingdom"; and for an unprecedented time he was privileged to bask in the sunshine of the Royal favour. The gilded rungs of the ladder by which he was destined to climb so high may here be noted: he was knighted in 1607; created Viscount Rochester, 1611; private secretary to the

(*a*) Authorities for the "amiable weakness" of his Majesty in this regard are cited by Harris, *Life of James I.*, 1753, p. 69, *n.* (HH).

(*d*) Weldon, *Court and Character of King James*, 1651, p. 64.

King, 1612; Knight of the Garter, Baron of Brancepeth, Earl of Somerset, and Lord High Treasurer of Scotland, 1613; Lord Chamberlain and Lord Privy Seal, 1614. His influence was paramount. "No Suite, no Petition, no Grant, no Letter, but Mr. Carr must have a hand in it; so that great rewards are bestowed upon him by Suitors, and large sums of money by his Majesty, by which means his wealth increased with his favour, and with both honour, for worth and riches dignify their owners." (*a*) The ugliest business in this connection was the forced sale to the Favourite in 1609 by the King's command of Raleigh's rich manor of Sherborne. The moving protests against this infamous transaction made by Sir Walter from his dungeon were without avail. "I maun hae the land, I maun hae it for Carr," was the judgment of the second Solomon: such was the justice of James the Just. But although his Majesty did not scruple thus to despoil the public treasury and even to plunder private persons to gratify his new fancy, there were limits to his extravagance. "He was very liberall," says Weldon, "of what he had not in his owne gripe, and would rather part with 100. *li.* hee never had in his keeping then one twenty shillings peece within his owne custody." Everyone knows the story of how Lord Treasurer Salisbury sought to open the King's eyes to the magnitude of his prodigality by piling on a table in his view £5000 of the £20,000 for which he had given an order to Carr; and how James, sobered by the sight of the great pile of gold, at once restricted the gift to that amount.

While the nobility of England, headed by the haughty Howards, contended for the Favourite's favours, there were two members of the Court who refused to bow the knee to the new Baal: Queen Anne and Henry, Prince of Wales. His Majesty's "dearest bedfellow," as James inelegantly and inaccurately termed his consort, living in separate state and holding her own Court at Denmark House, had long since given him up as a bad job. Her complacency

(*a*) *Truth Brought to Light*, 1651, p. 8.

increasing with her bulk, she merely shrugged her ample shoulders at the Royal ongoings and went her own way. She was no Isabella to cope with the King's Gavestons and Spensers, though she had found her Mortimer, if all tales are true, in the Lord Pembroke. But the case of Carr was more than even her good nature could tolerate, and she hated him heartily. The Prince was mentally, morally and physically so unlike his Royal sire as to give some colour to contemporary scandal. A lad of brilliant promise, graceful, accomplished, intelligent and generous-hearted, an ardent patriot and a lover of arms, he was the hope of England and the people's idol. Strangely enough in so corrupt a Court, his morals were irreproachable. Small wonder that the King, envious of his popularity and virtues, looked but coldly on this paragon son, and that there was little love lost between them. "No one but my father would keep such a bird in a cage," said the Prince, of Raleigh whose pupil and admirer he was. Naturally detesting the Ganymedes whom the King delighted to honour, Carr's phenomenal rise and influence especially provoked Prince Henry's hostility, and the two young men were openly opposed. Indeed so strained were their relations that the Prince is said on one occasion "to have strook him on the Back with his Racket." (*a*)

Behind all these conflicting interests and animosities there was one inconspicuous figure whose hands held many of the strings. Thomas Overbury, squire's son, Oxford graduate, law student and man of letters, was one of those people so aptly described by the Tichborne Claimant as having "plenty brains and no money," for whose benefit persons conversely endowed are specially created. Upon a voyage of pleasure to Edinburgh, he had there made acquaintance with Robert Carr, who accompanied him on his return to England. The intimacy continued, and in 1608 by the Favourite's good offices Overbury was appointed

(*a*) Osborne, *Traditionall Memoyres*, 1658, p. 119.

a Gentleman of the Household and graciously knighted.(*a*) Sir Thomas and his friend in combination made a powerful pair, the intellectual gifts of the one supplementing the material advantages of the other. But for Overbury's prompting the beautiful and brainless Favourite could never have sustained, politically, the part he was called upon to play. "The voice was the voice of Jacob." Overbury became his second self, wrote his letters, coached him in statecraft, and "devilled" for him to such effect that Sir Robert Carr won golden opinions for his unexpected ability. And the Queen, who despite her complaisance was no fool, disliked Sir Thomas Overbury even more than she did the Favourite.

The curtain rises for the entrance of the heroine. Frances, Lady Essex, pending the return of her young husband from abroad, had "come out," and was now in the enjoyment of those privileges to which her rank and beauty entitled her. "The Court was her Nest, her Father being Lord Chamberlain; and she was hatched up by her Mother, whom the sour breath of that Age (how justly I know not) had already tainted. . . . And growing to be a Beauty of the greatest Magnitude in that Horison, was an Object fit for Admirers, and every Tongue grew an Orator at that Shrine." (*b*) As to her character, she is described as being "of a lustfull appetite, prodigall of expence, covetous of applause, ambitious of honor and light of behaviour." (*c*) These attributes would not of themselves have sufficed to render their possessor conspicuous in Court circles, but the charms of the youthful debutante won for her a conquest of the first importance. Contemporary authorities concur in stating that the Prince of Wales, whose coldness had hitherto withstood the fire of so many fine eyes directed upon him, succumbed for a time to the wiles of the bewitching Countess, "set on" to the seduction of his

(*a*) "I ken the man weel; he's one of my thirty-pound knights."—*Eastward Hoe!* Act IV. Sc. i.

(*b*) Wilson, p. 56.

(*c*) *Truth Brought to Light*, p. 9.

Highness by her crafty granduncle, Northampton. Old heads are seldom found upon such young and lovely shoulders; regrettably for the success of that nobleman's schemes his charming relative, casting prudence and family interest to the winds, fell desperately in love with the Favourite, the all-powerful rival of the House of Howard. That so vain a man as Carr appreciated the distinction of being wooed by the Prince's mistress goes without saying, yet the position, though flattering, was not without its drawbacks. Meetings were difficult and dangerous, Carr had no talent for correspondence, and a confidant was required to carry on the intrigue if it were to escape the prying eyes of the Court. So His Majesty's adviser was fain to consult his own more gifted counsellor, with the happiest results. Overbury's subtle mind revelled in the occasion; he undertook the whole management of the affair, and actually wrote his friend's love letters! (*a*) The pen that drew the famous *Characters* must have done its work well; the letters, had they been preserved, would be interesting reading. But in spite of all precautions some word of his siren's perfidy reached the Prince's ear, and he availed himself of the first opportunity to break with her. "For dancing one time among the Ladies, and her Glove falling down, it was taken up, and presented to him by one that thought he did him acceptable service; but the Prince refused to receive it, saying publickly, 'He would not have it, it is stretcht by another.' This was an aggravation of hatred betwixt the King's Son and the King's Friend." (*b*)

And then to the Countess, smarting under this open affront and fearing to lose her hold on Carr in consequence of the scandal—"for dishonest Love is most full of jealousie"—at Christmastide 1609 came my Lord of Essex from the Low Countries to claim his girl-bride. The Earl was now a grave young man of eighteen, "of a mild and courteous condition," whom foreign service had made older than his years. To his amazement and dismay his wife

(*a*) Winwood, iii. 478. (*b*) Wilson, p. 56.

refused to live with him. "Yet notwithstanding, the Earle retained her with him, allowed her honorable attendance, gave her means according to his place, shewed an extraordinary affection, endeavouring rather by friendly and faire perswasions to win her, than to become supercilious over her." (*a*) Finding her unamenable to reason he invoked the authority of her parents, and in the end she was compelled to accompany her husband to his house of Chartley in Staffordshire, where, doubtless with an ill enough grace, she ostensibly accepted the duties of her position.

The scene changes to Hammersmith, the abode of the wise woman, Mrs. Turner. The widow of Dr. George Turner, a reputable physician, this lady, "of a low stature, faire visage, for outward behaviour comely," was, as our authority frankly states, "little lesse than a flat Bawd, by which means shee is made apt to enter into any evil action, to entertain any motion, be it never so facinorous." (*b*) Scott used some of her more presentable features for his portrait of Dame Ursula Suddlechop. To this experienced matron Lady Essex applied for guidance in her two pressing needs: how to confirm Carr's love for her and repel that of her husband. The case lay somewhat outside the cunning woman's practice; she deemed it wiser to consult a specialist, and recommended one Dr. Simon Forman "that dwelt at Lambeth, being an ancient Gentleman, thought to have skill in the Magick Arts," by whose aid she had already benefited in a personal affair of the heart.(*c*) This expert undertook—like old Trapbois, for a consideration—to "inchant" the Earl and the Favourite; and to that end he supplied the Countess with certain phallic emblems, fashioned in wax and lead, together with divers powders to be administered to the respective patients. But despite

(*a*) *Truth Brought to Light*, p. 10. (*b*) *Ibid.*, p. 13.

(*c*) She had given to Sir Arthur Mainwaring, a gentleman of the Prince's suite, one of Forman's prescriptions, "which wrought so violently with him that, through a storm of Rain and Thunder, he rode fifteen miles one dark night to her House, scarce knowing where he was till he was there."—Wilson, p. 57.

the exhibition of these mystic drugs the Earl's affection for his wife persisted and the Favourite was as far off as ever. "I cannot be happy so long as this man liveth," wrote the Countess from Chartley to her "Sweet Turner"; "therefore pray for me, for I have need, but I should be better if I had your company to ease my mind. Let him [Forman] know this ill news. If I can get this done, you shall have as much money as you can demand: this is fair play." (*a*) To the venerable magician, her "Sweet Father," she wrote complaining of the inefficacy of his charms: "My Lord is lusty and merry, and drinketh with his men; and all the content he gives me is to abuse me, and use me as doggedly as before. I think I shall never be happy in this world, because he hinders my good and will ever, I think. So remember, I beg for God's sake, and get me out of this vile place." Subscribing herself "Your affectionate loving daughter," she adds in a postscript: "Give Turner warning of all things, but not the lord [Carr]. I would not have anything come out for fear of the Lord Treasurer [Salisbury], for so they may tell my father and mother, and fill their ears full of toys." (*b*)

Whether by the potency of the wizard's spells or because the country began to bore him, as in his domestic circumstances is not unlikely, the Earl decided to return with his wife to town. Sir Robert Carr was now my Lord Viscount Rochester, and a mightier man than ever. The intrigue was resumed in the winter of 1610–11, and as regards the Favourite's attachment Lady Essex had no reason to complain of the magician's failure: an "inchanted Nutmeg," given to the Viscount in his drink, had proved most efficacious; but "really to imbecillitate the Earl," in Wilson's phrase, seemed beyond the art of magic. It appears from the evidence of the servants in the subsequent divorce case (*c*) that for the next eighteen months the Earl and Countess followed the Court and visited at sundry great houses, including her father's at Audley-end in Essex,

(*a*) *State Trials*, ii. 931. (*b*) *Ibid.*, ii. 932. (*c*) *Ibid.*, 789–794.

Mrs ANNE TURNER,
Executed Novr 15th 1615 for the Murder of Sr Thos Overbury.
From a very rare Print.

apparently on the common footing of man and wife. On 6th November 1612 Prince Henry died after a brief illness, whether due to poison or typhoid fever has been disputed. In the popular belief Rochester and Northampton were responsible for his taking off, and a horrid suspicion even attached to the King himself as being accessory to the crime.(*a*) But though my admiration for James is by no means blind, I cannot believe him capable of murdering his own son. The Prince of Wales thus removed from his path, the Favourite was now well nigh omnipotent. The infatuation of Lady Essex for him was such that their clandestine connection no longer satisfied her: she must be his wife before the world; yet his power, great as it was, could not put asunder those whom God was understood to have joined. The resources of sorcery had been exhausted in vain; there remained a shorter and a surer way.

In February 1613 a certain wise woman named Mary Woods, *dite* "Cunning Mary," being apprehended for theft, told the Suffolk justices a curious tale. She said that Lady Essex had given her a ring and promised her £1000 if she would furnish for the Earl's consumption a poison that should not act for three or four days. Finding herself unequal to the responsibility, "Cunning Mary" repented and left London. The affair, as savouring of *scandalum magnatum*, was promptly burked, and we cannot know how much truth lay at the bottom of the wise woman's well.(*b*) It is probable that the miscarriage in the matter of "Cunning Mary" arrested the Countess in her more deadly purpose. Her next design was to obtain a divorce on the ground of nullity. As the marriage had subsisted for six years and the parties had lived together for three, it says much for her Ladyship's assurance that she should now boldly announce that she had never in fact been a wife

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(*a*) The evidence is discussed by Mr. Andrew Bisset, *Essays on Historical Truth*, 1871, pp. 357–410; cf. *The Great Oyer of Poisoning*, *passim*.

(*b*) Gardiner, *History of England*, ii. 169 *n.*; Gibb, *King's Favourite*, 1909, pp. 126–129.

at all, while her unblushing claim to maidenhood, in view of her relations with Prince Henry and the Favourite, is even more brazen. Rochester advised with Northampton, who thought well of the scheme and undertook to put it before the lady's parents and to sound his Majesty on the subject. Lord and Lady Suffolk were fully alive to the advantages of an alliance with the Favourite, and the savour of sculduddery and divinity attaching to the case appealed peculiarly to the Royal palate.(*a*) But though the proposed proceedings received the imprimatur of these high personages, an unlooked-for obstacle arose.

Sir Thomas Overbury, the Viscount's *alter ego*, was suffering from swelled head. He had all a ventriloquist's contempt for the puppet whose strings he had so long controlled, and did not always take the trouble to conceal it; he enjoyed the reputation of a successful author, and numbered Ben Jonson among his literary cronies at the Mermaid; he was tired of carrying messages to Hammersmith, interviewing wizards, and arranging assignations in Paternoster Row, where Mrs. Turner when in town resided; and he began to see that not only was this liaison endangering his patron's future prospects but—a matter of more importance—was imperilling his own. He had disliked and distrusted Lady Essex from the first; when, therefore, he learned that Carr actually proposed to marry her so soon as a disgraceful and fraudulent divorce could be obtained, his resentment knew no bounds. To have the fool he had made appear as wise before men waste time and substance on a worthless woman was bad enough; to let him make her Viscountess Rochester was beyond bearing. Once my Lord had so unscrupulous a helpmate, Othello's occupation would be gone indeed. So Sir Thomas spoke his mind to his patron, and in the pungent phrase of which

(*a*) It is curious that James should have been twice mixed up with the marriages of his favourites to women who divorced their husbands for impotency. *Cf.* the case of the Countess of March and James Stewart, Earl of Arran.—*Fraser Chronicles*, Scottish History Society, xlvii. 178–182.

he was master added to his gallery of *Characters* a new portrait in prose: "The Mistress made A Wife." Their relations had been for some time less cordial than of yore, owing to the arrogant behaviour of Overbury; the Viscount, "being a little netled in his affection, grows something harsh, and Sir Tho. having been heretofore excepted at, with these kind of contentions grows so much more carelesse, answers word for word; so that from fair and friendly speeches they grow to words of anger, and either to crosse the other."(*a*) In the end the breach between the friends became complete.

Rochester, as is the way with weak natures, could not keep his troubles to himself; he hastened to his mistress, and into her delicate ear poured all the injurious epithets which Sir Thomas had applied to her. From that moment Overbury's doom was sealed; thenceforth the Countess, like Queen Mary, studied revenge. She saw that by proclaiming a tithe of what he knew of her intrigues with Prince Henry and the Viscount, and of her attempts upon her husband's health and life, Sir Thomas could render the divorce proceedings abortive and blast her reputation even in such a Court as that of King James, so she convinced her lover that at all costs the mouth of this dangerous witness must be stopped. One of the Queen's gentlemen, Sir David Woodes, between whom and Overbury "there was some discontent," was offered by the Countess £1000—this being, as appears, the customary fee for such an operation—to assassinate Sir Thomas. She also promised to reconcile Woodes with Rochester, "his greatest enemy." But Sir David declined to act without the Viscount's express warrant, so the affair went no further. Carr, at his trial, admitted knowledge of the plan.(*b*) Northampton and Rochester evolved a subtler scheme. They decided to approach his Majesty, as the fount and source of justice. A word of the common report that, whilst Rochester ruled the King, Overbury ruled Rochester,

(*a*) *Truth Brought to Light*, p. 33. (*b*) *State Trials*, ii. 982.

was all that was required to rouse into action the Royal authority, of which James was morbidly jealous. The post of ambassador "into Flanders, to the Arch-Duke (some say, into France)," (*a*) was offered to Sir Thomas, who begged to be excused: he had no wish to leave his own country. The King, furious at this flouting of his sovereign will, on 21st April 1613 committed Overbury to the Tower "for a matter of high contempt." What induced so clever a man to resist the King's command and thus to rush upon his fate? In this predicament Sir Thomas had turned to his former friend for aid. It is probable that if Overbury had accepted his banishment Rochester would have been content to let him go, but finding him unwilling to do so he, doubtless at the instigation of the Countess, advised him to resist the Royal order, well knowing what the consequences would be.(*b*) At all events, as we shall find, the prisoner complained bitterly of his betrayal.

And now the stage is clear for the bill of divorcement. With the infragrant details of that "Devil's Law Case" it is fortunately unnecessary to deal—the curious reader will find them elsewhere, and much good may they do him, but the main facts of the shameless business must be related, in order rightly to appreciate what followed.(*c*) Early in May a family council was held at Whitehall to discuss the procedure to be adopted, Northampton and Suffolk representing their fair relative, while her husband's interests were confided to Lords Southampton and Knollys. Essex, though no longer desirous of retaining the lady, would admit nothing to prejudice his own remarriage, and without his concurrence the case was hopeless; so the Howards had to rest satisfied with a modified plea of impotency *quoad hanc*, to which the Earl to be rid of his wife consented. His Majesty, highly approving of this nice distinction, on 16th May appointed under the Great Seal a Royal Commission to try the cause. Among the ten members

(*a*) Wilson, p. 67. Other authorities say, Russia.

(*b*) Gardiner, ii. 177–8, *n.* (*c*) *State Trials*, ii. 785–862.

nominated was Dr. George Abbot, Archbishop of Canterbury, whose situation was as invidious as that of the one righteous man in the wicked cities; the rest were mostly creatures of the King. The depositions of the witnesses were taken on 2nd June, and the more the Archbishop heard of the case the less he liked it. The Countess had the audacity to maintain by her counsel that her husband was bewitched; how Mrs. Turner, if she attended the hearing, must have enjoyed that touch! But even this impudent assertion is surpassed in effrontery by the testimony adduced in her behalf, for "seven noble women," headed by the Countess of Suffolk, her mother, solemnly declared on oath that, notwithstanding her varied experiences, Lady Essex "remained a Virgin uncorrupted." If the other great dames were, morally, of Lady Suffolk's complexion their evidence would present few difficulties; but there is another explanation, more creditable to the matrons' honour. Modesty had prescribed that the Countess should appear before them veiled. "One mistris Fines, near Kinswoman to old Kettle, was dressed up in the countesses cloathes, at that time too young to be other then *virgo intacta*, though within two years after, had the old ladies made their inspection . . . "—but here our authority becomes somewhat too Jacobean to be followed further.(*a*) The proof was inadequate even for a packed tribunal, and the case being closed, it was found that the Commissioners were equally divided.

His Majesty was highly incensed; the Archbishop upon his knees begged with tears to be released from his distasteful task, but to no purpose. James was determined that the case should go on; and in defiance of justice and precedent his Majesty adjourned the proceedings till 18th September, adding to the Commission the Bishops of Winchester and Rochester, prelates upon whom he could depend to take their law and gospel from the Defender of the Faith. Then the good Archbishop addressed to the

(*a*) Weldon, p. 81.

King a letter setting forth arguments scriptural and patristic in support of his opinion, and deprecating the power of Satan to produce the results alleged.(*a*) James replied at great length, with vast display of learning and a fine appreciation of the physiologic problem which the case presented. Having corrected the Archbishop's divinity, he concluded thus: "I will end with our Saviour's words to St. Peter, *Cum conversus fueris, confirma fratres tuos;* for on my conscience, all the doubts I have yet seen are nothing but *nodos in scirpo quærere.*" (*b*) But despite all the pressure his Majesty could bring to bear upon him, the stout old bishop stood firm. He has left on record an elaborate account of the matter, showing how far to pleasure his Favourite King James was prepared to tamper with the laws of God and England.(*c*) On 25th September, by seven votes to five, the Commissioners pronounced for the nullity of the marriage, and Lady Essex was free of her bonds. By express command of his Majesty the "acute and honourable minority" were forbidden to state the grounds of their decision.

"Of the conduct of James," observes Mr. Gardiner, "it is difficult to speak with patience. . . . Nothing could well have been more prejudicial to the interests of justice than his meddling interference at every step, which did even more harm than the appointment of the additional members." (*d*) Indeed, none of that monarch's many arbitrary acts did so much to widen the breach between the throne and the people as his behaviour in this connection. For these things were not done in a corner; the four-months' trial had been followed with the public interest always attaching to a *cause célèbre.* The godly were disgusted, the profane intrigued, but the cause of the Favourite had triumphed and his Majesty was content. The son of the Bishop of Winchester, whose pious zeal for the Head of the Church had contributed so largely to the happy issue,

(*a*) *State Trials*, ii. 794.
(*b*) *Ibid.*, ii. 802.
(*c*) *Ibid.*, ii. 805–860.
(*d*) *History*, ii. 173.

was knighted, and for the remainder of his days was called Sir Nullity Bilson, in remembrance of his father's prowess. Well might Sir Walter Raleigh write, shortly before his death :

> Go, tell the Court it glows,
> And shines like painted wood;
> Go, tell the Church it shows
> What's good, but does no good.
> If Court and Church reply,
> Give Court and Church the lie.(*a*)

On 11th November my Lord Viscount Rochester was created Earl of Somerset, and on 26th December his magnificent nuptials with the Lady Frances Howard were celebrated in the Chapel Royal, in presence of their Majesties and the whole Court. Old Northampton gave away his grandniece, and the celebrant was that very Bishop of Bath and Wells who seven years before had married the lady to Lord Essex. The bride, appropriately robed in white, wore her beautiful hair unbound—the insignia of maidenhood.(*b*)

> O these golden nets,
> That have insnared so many wanton youths!
> Not one, but has been held a thread of life,
> And superstitiously depended on.(*c*).

The irony of the situation was not lost upon the Courtiers. The honeymoon over, the noble pair took up house in London, having acquired the magnificent mansion of Sir Baptist Hicks at Kensington.

On 15th September, ten days before the judgment which paved the way for this Ahab festival, with its Court masques and revels, its City triumphs and banquets, and its cataract of costly gifts, Sir Thomas Overbury died miserably in the Tower. After her failure with the Queen's gentleman Lady Essex, abandoning the assassination motif, took counsel with her trusty friend Mrs. Turner as to the

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(*a*) *Raleigh's Works*, ed. Birch, ii. 396.

(*b*) Such was then the custom of virgin-brides. Cf. *The White Devil*, Act IV. Sc. i.

(*c*) *The Insatiate Countesse*, Act V. Sc. i.

best means of wreaking vengeance upon her enemy; "protesting that she was never so defamed, neither did she ever think that any man durst have been so saucy as to call her whore and base woman, and that to Rochester her only hope, and with an impudent face; but Overbury, that Negroe, that scumme of men, that devill incarnate, he might do any thing, and passe either unregarded or unpunished."(*a*) The wise woman was greatly shocked at the insults offered to her benefactress; rather than the slanderer should escape "shee would be his Death's man herself." She was of opinion "that to poison him was the onely way, and that with least suspect; but then the party that should doe it was to seek, for he must bee no ordinary man, [but] some Apothecary or Physitian, that might temper the poison rightly to take effect according to their mind."(*b*) Death had deprived them of the services of the venerable Dr. Forman, and of Dr. Gresham, his colleague and successor. "After long study" one Richard Weston was selected—he had been the late Dr. Turner's assistant, and enjoyed the widow's confidence. For a reward of £200 he undertook the job.

Sir William Wade, the Lieutenant of the Tower, was a model governor. No visitors, letters or messages were allowed to reach the prisoner; but as this did not suit the conspirators' plans the Royal authority was invoked to dismiss him, and his post was given to Sir Gervase Elwes, a more complaisant gaoler. Somerset was afterwards charged with initiating this friendly move. Lady Essex next procured, through Sir Thomas Monson, the Master of the Armoury, the appointment of Weston as gaoler to the prisoner. Meanwhile Mrs. Turner had introduced her fair client to Dr. James Franklin, dwelling near Doctors Commons, "a man of a reasonable stature, crook-shouldered, of a swarthy complexion, and thought to bee no lesse a witch then the two former, Forman and Gresham," (*c*) who furnished the ladies from time to time with "the strongest

(*a*) *Truth Brought to Light*, p. 37. (*b*) *Ibid.*, p. 38. (*c*) *Ibid.*, p. 43.

poison he could get for Sir T. Overbury," viz. aqua fortis, white arsenic, mercury, powder of diamonds, lapis costitus, great spiders, and cantharides, "wherewith he might languish away by little and little." (*a*) It now only remained to exhibit these remedies, and her Ladyship's purpose would be achieved.

The campaign seems to have opened on 6th May, when Weston received from Mrs. Turner in a vial "certain yellow poison, called Rosalgar," with a view to its insertion in the prisoner's broth.(*b*) With the vial in one hand and the captive's supper in the other, Weston unwelcomely encountered the Lieutenant of the Tower. "Sir, shall I give it to him now?" he whispered. The poisoner was either a tyro in his art or he strangely overestimated the Lieutenant's complaisance, for Sir Gervase "terrified him with God's judgments"; but perceiving the good effect of this commination, "drank to him" to encourage his repentance.(*c*) It is singular that the governor of a gaol, having detected an attempt upon a prisoner's life, should content himself with preaching a sermon and drinking the would-be murderer's health. Doubtless Sir Gervase knew that high interests were involved, for had not the great Lord Privy Seal called personally to commend the prisoner to his vigilance? Whether or not this poison was actually administered, Weston told Mrs. Turner that he had given it to Overbury, upon whom it "wrought very vehemently"; he accordingly demanded his reward. "The man is not yet dead," replied the cautelous dame; "perfect your work, and you shall have your hire." (*d*)

On 5th June Rochester sent to Overbury a letter containing a white powder. "It will make you more sick," he wrote, "but fear not; I will make this a means for your delivery, and for recovery of your health." Overbury took the powder, "whereupon his sickness grew more violent and his languishment increased." (*e*) If, as Somerset at

(*a*) *State Trials*, ii. 941, 947. (*b*) *Ibid.*, ii. 917. (*c*) *Ibid.*, ii. 938.
(*d*) *Ibid.*, ii. 917. (*e*) *Ibid.*

his trial alleged, this powder was harmless, his sending it under such toxic conditions was unfortunate as being open to misconstruction by the froward. With the benevolent intention of giving variety to the prison fare, both Rochester and the Countess were in the habit of sending from their respective tables wine, tarts, and jellies for the prisoner's use. One of Lady Essex's accompanying communications to the Lieutenant has been preserved :—

I was to bid you say that these tarts came not from me; and again, I was bid to tell you that you must take heed of the tarts because there be *letters* in them, and therefore neither give your wife nor children of them; but of the wine you may, for there are no *letters* in it. Sir T. Monson will come from the Court this day, and then we shall have other news.(*a*)

At the subsequent trial her Ladyship, examined as to this document, "Saith, That by *letters* she meant poison." Dr. Franklin, in his confession of 16th November 1615, gave the following remarkable account of the methods employed :—

Sir T. never eat white salt but there was white arsenick put into it. Once he desired pig, and Mrs. Turner put into it lapis costitus. The white powder that was sent to Sir T. in a letter he [Franklin] knew to be white arsenick. At another time he had two partridges sent him from the Court, and water and onions being the sauce, Mrs. Turner put in cantharides instead of pepper; so that there was scarce anything that he did eat but there was some poison mixed. For these poisons the Countess sent me rewards; she sent many times gold by Mrs. Turner. She afterwards wrote unto me to buy her more poisons.(*b*)

The power of Overbury's constitution to withstand this toxicological bombardment recalls the endurance of Nicol Muschet's wife in similar trying circumstances; but the defence in both cases suffered severely. Sir John Lidcote, Overbury's brother-in-law, asked Rochester for leave to visit the prisoner, which, as it could hardly be refused, my Lord obtained from the King. Lidcote found him "very sick in his bed, his hand dry, his speech hollow." He instructed Sir John to write his will. As Lidcote

(*a*) *State Trials*, ii. 989. (*b*) *Ibid.*, ii. 941.

was taking leave the prisoner asked softly "whether Rochester juggled with him or not?" but the Lieutenant, who was present, heard the whisper and interfered.(*a*) From his sickbed the unhappy man wrote repeatedly to his false friend, upbraiding him with his treachery. These letters may be read in the report of Somerset's trial. Their bitter, scornful tone must have been wormwood to the haughty Favourite, while the threat of reprisals was well calculated to make a galled conscience wince.

> Is this the fruit of my care and love to you? Be these the fruits of common secrets, commons dangers? As a man, you cannot suffer me to lie in this misery; yet your behaviour betrays you. All I intreat of you is, that you will free me from this place and that we may part friends. Drive me not to extremities, lest I should say something that you and I both repent. And I pray God that you may not repent the omission of this my counsel, in this place whence I now write this letter.(*b*)

Overbury's last letter, written shortly before the end, after five months' captivity, shows that his eyes at length were fully opened to the extent of Rochester's "jugglery." "You owe me for all the fortune, wit, and understanding that you have," he writes; and then proceeds scathingly to expose his friend's cynical and perfidious conduct, from the time "you had won that woman by my letters" till, by following Carr's treacherous advice, "I was caught in the trap." He has written at large "the story betwixt you and me," which he has sent under eight seals to a safe friend; "and if you persist still to use me thus, assure yourself it shall be published. Whether I live or die, your shame shall never die, but ever remain to the world, to make you the most odious man living."(*c*) Needless to say, this narrative was never forthcoming; at whose instance it was burked is not hard to guess, but that it would have thrown a flood of light upon the whole dark business is certain.

The result of this turning of the worm was seriously to alarm the plotters. There was a rumour that Overbury

(*a*) *State Trials*, ii. 985. (*b*) *Ibid.*, ii. 979. (*c*) *Ibid.*, ii. 980.

was about to be released, and they feared that "they all should be undone." The Countess sent for Weston "and was very angry with him that he had not dispatched Sir Thomas." Weston replied, with reason, that the failure was more his misfortune than his fault: he had given him poison "that would have killed twenty men." (*a*) There, for the time, the matter rested.

If there be one point clearly established as to the character of King James it is his implacable vindictiveness; he never forgave or forgot. Now as we know from Sir Ralph Winwood, Principal Secretary of State, that "such a rooted Hatred lyeth in the King's Heart towards him [Overbury]," (*b*) it says much for his Majesty's good nature that at this crisis he should have commanded his own private physician, Sir Theodore Mayerne, to undertake the case. Mayerne was at the top of the professional tree, a fowl of finer plumage than those obscene night-birds Drs. Forman, Gresham and Franklin. He had been physician to Henry IV. of France, and after the assassination of that prince in 1610, came to London on James's invitation. That his Royal master rated his services highly appears from the fact that his official salary was £400, that of the Lord Chief-Justice of England being but £258, 6s. 5d. (*c*) He had presided over the last illness and death of the Prince of Wales. Mayerne was too grand a man personally to attend Overbury; he merely acted as consultant, leaving the patient in charge of an apothecary named Paul de Lobell, who "dwelleth near the Tower in Lyme Street," and had married a sister of Mayerne. The great doctor's written prescriptions in Overbury's case, "containing 28 leaves or pieces of paper, great or small, which is all the phisick that this examinant ministred to him," were handed by Lobell to Lord Chief-Justice Coke at his examination on

(*a*) *State Trials*, ii. 948.

(*b*) Winwood to Southampton, 6th August 1613. The grounds of his Majesty's disfavour were jealousy of Overbury's influence with the Favourite, and of his reputation as a man of letters.

(*c*) *Abstract of His Majesty's Revenew*, 1651, pp. 39, 49.

3rd October 1615. Among the three hundred examinations taken by Coke in connection with the affair of Overbury—portions only of a few were used at the trials, the rest being suppressed—this of Lobell was discovered and published by Professor Amos,(*a*) but the prescriptions, like Overbury's narrative, never saw the light. It would be instructive to know their contents. From another suppressed examination—that of Weston—we learn that the Lieutenant of the Tower gave strict orders "that none should come thither but the former apothecary [Lobell] or his man, and that no other came at any time, or gave any clyster to Sir Thomas Overbury."(*b*) From the evidence in the printed trials and from the suppressed examinations it clearly appears that the prisoner's end was finally compassed by means of a clyster or enema of corrosive sublimate, given him on 14th September, of which after great agony he died on the following day, and that this injection was administered by the "boy" or assistant of Lobell. Now, it is a curious fact that according to the published reports of the trials of the seven persons severally charged with the murder, Lobell, instead of appearing at the bar, was twice produced as a witness: at Weston's trial merely to state that on 3rd July he gave Sir Thomas a bath, "and saw his body very exceeding fair and clear," whereas after death he found it "full of blisters and so consumed away as he never saw the like";(*c*) at Somerset's trial, to state that when he first attended Overbury on 25th June he found him "ill," and on three subsequent occasions Rochester asked him how Overbury did, to which he answered "he was very sick."(*d*) Not a single question was put to Lobell about the clyster, or as to the cause of death, nor did the name of the great Dr. Mayerne, as the newspapers say, transpire! But in the MS. account of Somerset's case discovered by Amos, Lobell said that on the third occasion Rochester "willed him to write to Dr. Maiot [Mayerne's name is variously spelt]

(*a*) *Great Oyer of Poisoning*, p. 167.
(*b*) *Ibid.*, p. 180.
(*c*) *State Trials*, ii. 922.
(*d*) *Ibid.*, ii. 986.

concerning physick to be given Overbury."(*a*) This part of his evidence was, for some reason, suppressed in the official report of the trial.

There was much relief in many quarters at this happy issue out of a tight corner. The Lord Privy Seal announced the news to Rochester, his "Sweet Lord," with a ghoulish glee reminiscent of Knox's genial mention of the deaths of Cardinal Beaton and the Queen Regent. To the Lieutenant of the Tower he wrote: "If the knave's body be foul, bury it presently [immediately]; I'll stand between you and harm. But if it will abide the view, send for Lidcott and let him see it, to satisfy the damned crew."(*b*) The same day, "in post haste at 12," Northampton wrote again to Elwes:—

> Fail not a jot herein, as you love yr. friends; nor after Lidcote and his friends have viewed stay one minute, but let the priest be ready; and if Lidcote be not there, send for him speedily, pretending the body will not tarry.(*c*)

So at long last Sir Thomas lay in his resting grave, and the Countess was avenged of her enemy. Death is always a costly business for the survivors, but Overbury's demise entailed unusual expense. Weston's account amounted to £180; Dr. Franklin, who had been retained at the modest figure of "2s. 6d. a day for boat-hire, and 10s. a week for diet," claimed an annuity of £200; Mrs. Turner's price being above rubies, she valued her services accordingly; her "toothless maid, Trusty Margaret," Stephen, her manservant, and Mrs. Horne, her Ladyship's own woman, "being acquainted with the poisoning," had all to be squared; and Lobell's "boy" got £20.(*d*) Murder by deputy, as appears, is in one sense at least a "paying" game.

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Two years pass and the curtain rises for the Fourth Act. Enter Chorus. The great Lord Privy Seal has gone

(*a*) *Great Oyer of Poisoning*, pp. 116, 140. (*b*) *Ibid.*, p. 173.
(*c*) *Ibid.*, p. 174. (*d*) *State Trials*, ii. 926, 942.

to join Sir Thomas among the shades,(*a*) and my Lord of Somerset reigns in his stead. The Overbury affair is forgotten, unless the Earl and his Countess chance to talk over old times, or when the necessities of Mrs. Turner, "Trusty Margaret," and the rest compel them to remind their noble patrons of former services. But the prisoner of the Tower has taken away with him more than his false friend's secret. The Favourite has lost much of that ability by which he was so long distinguished; his flair for statecraft is sensibly abated; he is become sullen, irritable and overbearing, and he bullies his affectionate master unconscionably. James's hurt protests make pathetic reading. At this juncture the Courtiers—those vigilant readers of the stars—predict the advent of a new planet. Mr. George Villiers, a charming young gentleman from the country, comes to Court, finds favour in the Royal sight, and with classical fitness is appointed the King's cupbearer. A knighthood, a place in the Bedchamber and a pension of £1000 a year, presently follow; it is common knowledge in the Palace that the wind has changed. These things do not improve the Favourite's temper; he quarrels with the graceful Ganymede and treats his Majesty more rudely than ever. He is too proud to learn mankind's hardest lesson. Sir Thomas, among the shades, rubs phantom hands as he watches Nemesis shuffle the cards.

. . . . . .

In the autumn of 1615 a rumour reached England from abroad that Overbury had met his death by poison. "The Apothecaries boy that gave Sir Thomas the Glister, falling sick at Flushing, revealed the whole matter."(*b*) Trumbull, the British agent at Brussels, having got wind of this confession, informed Secretary Winwood.(*c*) The Secretary, who hated the Favourite, realised the importance of the discovery and went warily to work. Taxed by him with complicity in the murder Sir Gervase Elwes admitted

(*a*) Northampton died on 15th June 1615.

(*b*) Wilson, p. 80. (*c*) Weldon, p. 95.

knowledge of the attempt, which he claimed to have thwarted. Winwood then laid the facts before the King, who directed that the law should take its course: it was impossible that the affair could be hushed up. At this stage the only persons implicated were Weston, Mrs. Turner and the Lieutenant. James sent for Lord Chief-Justice Coke and the other judges, and charged them with the investigation. "Kneeling down in the midst of them," says Sir Anthony Weldon, who was then at Royston, "he used these very words":—

My Lords the Judges, it is lately come to my hearing that you have now in examination a business of poysoning. Lord, in what a most miserable condition shall this kingdome be (the only famous nation for hospitality in the world), if our tables should become such a snare as none could eat without danger of life, and that Italian custome should be introduced amongst us! Therefore, my Lords I charge you, as you will answer it at that great and dreadfull day of judgment, that you examine it strictly without favor, affection, or partiality; and if you shall spare any guilty of this crime, God's curse light on you and your posterity: *and if I spare any that are found guilty, God's curse light on me and my posterity for ever!* (*a*)

In view of the future fortunes of the Stuart dynasty this imprecation is striking. The incident recalls that other occasion when, after the slaying of the Ruthvens at Perth, James knelt upon the bloody floor, "assuring himself that God had preserved him from so despaired a peril for the perfecting of some greater work behind to His glory" —doubtless the punishment of Overbury's murderers.

Coke had a keen scent for plots; he went into the affair with equal industry and gusto, taking no fewer than three hundred examinations, as Mr. Attorney-General Bacon heard him say.(*b*) Weston, repeatedly examined, after much prevarication told all he knew; Mrs. Turner and her company of rogues were laid by the heels. The enquiry had left no doubt as to the complicity of Lord and Lady Somerset; but though, in Weston's metaphor, Coke's net had thus caught the little fishes, he felt unequal to landing

(*a*) Weldon, p. 100. (*b*) Spedding's *Bacon*, xii. 302.

the great ones without assistance. At his request, therefore, the Lord Chancellor (Ellesmere), the Duke of Lennox and the Lord Zouch were associated with him as Royal Commissioners.(*a*) His hands thus strengthened, Coke summoned Somerset for examination. The Favourite was with the King at Royston; furious at the Chief-Justice's presumption, he refused to submit. "Nay," said his Majesty, "thou must go then, for if Coke sends for me I must go too."(*b*) Weldon, who was there at the time, gives a graphic account of their parting—on Friday 13th October, an ill-omened date—which is too characteristic of King James to be omitted:—

> The Earle of Somerset never parted from him with more seeming affection than at this time, when he knew Somerset should never see him more; and had you seen the seeming affection (as the author himselfe did) you would rather have believed he was in his rising than setting. The earle, when he kissed his hand, the king hung about his neck, slabbering his cheeks, saying, "For Gods sake, when shall I see thee againe? On my soul, I shall neither eat nor sleep until you come again." The earle told him, on Monday (this being on the Friday). "For Gods sake, let me," said the king, "shall I, shall I?" then lolled about his neck. "Then for Gods sake give thy lady this kiss for me." In the same manner at the stayres head, at the middle of the stayres, and at the stayres foot. The earl was not in his coach when the king used these very words (in the hearing of four servants, of whom one was Somersets great creature and of the Bed-Chamber, who reported it instantly to the author of this history), "I shall never see his face more."(*c*)

Wilson adds that "he said it with a smile."(*d*)

The first thing Somerset did when he reached London was to send, by virtue of his possession of the Privy Seal, a pursuivant to secure Mrs. Turner's papers, then in the custody of a lady friend. He also burnt his own letters to Northampton, having previously entrusted Sir Robert Cotton with those he had received from that nobleman and

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(*a*) The Chancellor, as Solicitor-General, had helped to bring Mary, the mother of James, to the block; Lennox had lent his support to the King's version of the Gowrie tragedy; Zouch had lately supplanted Somerset in the office of Warden of the Cinque Ports.

(*b*) Wilson, p. 81. (*c*) Weldon, pp. 102, 103. (*d*) Wilson, p. 81.

from Overbury, to which he had affixed false dates.(*a*) These facts seem hardly compatible with a clear conscience. Unluckily, Mrs. Turner had retained, presumably for purposes of blackmail, the more compromising letters of the Countess, together with the esoteric images made by the late Dr. Forman, and these were already in Coke's hands. When the Commissioners learnt of this abuse by Somerset of his authority, they ordered the arrest of the Earl and the Countess, who on 18th October were severally committed to ward.

What Sir Edward Coke called the Great Oyer of Poisoning opened the following day with the arraignment of Richard Weston at the Guild Hall.(*b*) According to the admissions of Elwes and of Weston, Lobell and his boy were the actual murderers. The boy was beyond the jurisdiction of the Court, but Lobell was waiting in the witnesses' room. Why was not *he* indicted? Was the Lord Chief-Justice so ignorant of the law as to bring to trial an accessory, before a verdict had been obtained against the principal? Upon these points the research of Mr. Amos among the suppressed examinations throws a singular light. One Pomler, a French apothecary, deposed that "at the commendation of Monsr. Maierne to the King," Lobell was appointed "to minister such physick" as Mayerne should prescribe for Overbury. Edward Rider deposed that while the enquiry was proceeding he had a talk with Dr. Lobell:—

> [Lobell] speaking very hardly against those that went about to prove Sir Thomas to be poisoned, saying that the clyster which they pretend was the cause of his death (for which his son was called into question) was prescribed unto him by Mr. Doctor Magerne, the King's doctor, and that his son had made it according to his directions (not once speaking of his man to have any hand in it); and used very reproachful words, saying that our English doctors were all fools.(*c*)

Lobell further remarking "that there was never a good

(*a*) *State Trials*, ii. 979, 987. (*b*) *Ibid.*, ii. 911-930.
(*c*) *Great Oyer of Poisoning*, p. 169.

doctor in England but Magerne," Rider drily rejoined that he had heard in Paris that Mayerne was indeed a braver courtier than a doctor. Meeting Lobell and his wife a week later, says Rider,

> I told him that I heard it [the murder] was done by an apothecary's boy in Lime Street, near to Mr. Garret's, speaking as if I knew not that it was his son's boy that did the deed; and Mrs. Lobell standing by, hearing me say that he dwelt by Mr. Garret and that he was run away, she, looking upon her husband, said in French, "Oh! mon mari," &c. that is, "Oh! husband, that was William you sent into France"—(or to that effect), whom she said was his son's man; whereupon the old man, as it seemed to me, looking upon his wife, his teeth did chatter as if he trembled, which stroke me also into a quandary to hear her say so.(*a*)

Questioned further as to this boy, Lobell said he had sent him away with a letter of introduction to a friend in Paris, from which Rider conjectured "that he indeed did know the cause of his departure." It is highly suggestive that in these proceedings Mayerne's connection with the case was never mentioned at all, and that his agent Lobell, under the generic guise of "an apothecary," was kept as much as possible in the background. Coke was in constant touch with the King throughout the enquiry; the inference is that this Mayerne-Lobell business was by Royal command deliberately burked.

Another remarkable feature of these trials, strangely foreign to modern practice, is that the Lord Chief-Justice who presided had himself got up the Crown case, and admitted only such evidence as told against the accused. What would our sensitive sentimentalists, who clamour for the reprieve of red-handed murderers, have said to this?

Great trouble was caused by Weston's refusal to plead to his indictment, which at that date operated in bar of trial. Finally he was induced to do so; according to Coke, at the instance of the Holy Ghost, but more probably by threat of the *peine forte et dure*, to which his continued obstinacy exposed him. Lord and Lady Somerset were represented as the authors of the murder, which was said

(*a*) *Great Oyer of Poisoning*, p. 169.

to have been accomplished by Weston's administration of poisons supplied by them; but Coke laid it down as law that no matter what the poison or how employed, Weston could be convicted upon that indictment. Thus directed, and in the absence of any legal defence, the jury had no difficulty in finding the prisoner guilty. He was hanged at Tyburn on 25th October.

The trial of Mrs. Anne Turner took place at the King's Bench on 7th November.(*a*) The conviction of Weston made it comparatively an easy matter to secure that of his accomplice. The Countess's correspondence, and Dr. Forman's magical parchments and molten images, were exhibited in evidence against her. When these evil toys were produced in Court, "there was heard a crack from the scaffolds, which caused great fear, tumult and confusion among the spectators and throughout the hall, every one fearing hurt, as if the devil had been present and grown angry to have his workmanship shewed by such as were not his own scholars, and this terror continuing about a quarter of an hour, after silence was proclaimed the rest of the cunning tricks were likewise shewed." (*b*) The wise woman was found guilty and suffered accordingly on 9th November.(*c*)

Sir Gervase Elwes was next brought to trial at the Guild Hall on 16th November, charged with "the malicious aiding, comforting, and abetting of Weston." (*d*) The Lieutenant, an educated gentleman, put up a good fight, and was like to have been acquitted, but the Chief-Justice "drew out of his bosom" a confession made to him that morning by Franklin, who alleged that he had read a letter from

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(*a*) *State Trials*, ii. 929–936. (*b*) *Ibid.*, ii. 932.

(*c*) "Mistress Turner, the first inventress of yellow Starch, was executed in a Cobweb Lawn Ruff of that colour at Tyburn, and with her I believe that yellow Starch, which so much disfigured our Nation and rendered them so ridiculous and fantastic, will receive its Funeral" (Howell's *Familiar Letters*, 1st March 1618). Had she done no worse than introduce starch into England, Mrs. Turner deserved her doom.

(*d*) *State Trials*, ii. 935–948.

the prisoner to Lady Essex containing the words, "Madam, The scab is like the fox . the more he is cursed, the better he fareth," with other similar sentiments inferring his complicity in the crime. But apart from Franklin's statement there was nothing proved against Sir Gervase worthy of death. He was certainly in league with Northampton, and had signally failed in his duty to denounce Weston, but that was all. Elwes was executed on Tower Hill on 20th November.

Dr. James Franklin was tried at the King's Bench on 27th November upon the same indictment as Weston.(*a*) On his own confession he was found guilty and sentenced to death. He was hanged on 9th December at St. Thomas a Waterings,(*b*) and made an edifying end. After his conviction, Franklin darkly hinted "that there were greater persons in this matter than were yet known," and that other deaths than Overbury's had been compassed: "I think next the Gunpowder Treason, there never was such a plot as this." With reference to the King's appointing "an outlandish physician [Mayerne] and an outlandish apothecary [Lobell] about the late Prince, deceased [Prince Henry], therein," said he, "lyeth a long tale." (*c*) And did not Mrs. Turner at Whitehall "shew to Franklin the man who (as she said) poisoned the Prince, which he says was a physician with a red beard [Mayerne]"? (*d*) These allusions —or illusions—so powerfully impressed the Chief-Justice, that he communicated them to the King, who was naturally unwilling that they should be followed up. But Coke had got this plot business on the brain, he saw poison in every bush.

When, however, the case of Sir Thomas Monson was called before him on 4th December,(*e*) Coke adjourned the diet "till further order be taken." His Majesty, having personally considered the evidence, had decided that the

(*a*) *State Trials*, ii. 947–948.
(*b*) Marks, *Tyburn Tree*, p. 180.
(*c*) *Great Oyer of Poisoning*, pp. 227–229.
(*d*) Spedding's *Bacon*, xii. 289.
(*e*) *State Trials*, ii. 949–952.

prosecution be dropped. Coke was "mad he could not have his will of Monson." "There is more against you than you know of," he told the accused. James resented Coke's revival of the old scandals about Prince Henry's death; as Wilson remarks, "the Lord Chief-Justice's wings were clipt for it ever after," and he was removed from office within the year. Sir Thomas was soon set at liberty. The quality of mercy was not his Majesty's most conspicuous attribute; why then did he let off Monson, of whom the prosecutor, Sir Laurence Hyde, the Queen's attorney, at the trial said, "I have looked into this business, and I protest, my Lord, he is as guilty as the guiltiest"? Weldon's story, that James feared Sir Thomas meant to say something dangerous, is disbelieved by Mr. Gardiner.(*a*) Of the diversions of Monson's home circle Weldon draws a curious picture, which would have charmed M. Zola, and exhibits in a strange light domestic manners at the good King's Court.(*b*)

On her arrest Lady Somerset was ordered to be warded within her own house at Blackfriars or "at the house of the Lord Knollis, near the Tilt Yard," whichever she might prefer. She elected for the former, and there on 9th December she gave birth to a daughter.(*c*) When on 27th March she was removed to the Tower her chief anxiety was lest she should be confined in Overbury's lodging; her Ladyship was afraid of ghosts. She was given Sir Walter Raleigh's room, whose tenant was then sailing upon his last adventure, which was to end on Tower Hill.

The trial of Frances, Countess of Somerset, held in Westminster Hall before the Lord High Steward's Court on 24th May 1616, Sir Frances Bacon, His Majesty's Attorney-General, conducting the prosecution,(*d*) ought to have been the most interesting of the series; but the Countess upon her impeachment pleading guilty, the drama was practically

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(*a*) Weldon, p. 112; *History*, ii. 345 *n.* (*b*) Weldon, pp. 107, 108.

(*c*) The Lady Anne Carr, afterwards Countess of Bedford, and mother of William, Lord Russell, who suffered in connection with the Rye House Plot.

(*d*) *State Trials*, ii. 951-966.

enacted as a "Dumbe Shew," that favourite device of Elizabethan playwrights. This must have vexed the great and eager audience who had paid handsomely for admission: "£50 were given for a corner that could hardly contain a dozen."(*a*) Of Bacon's "Charge by way of Evidence," which he had intended to deliver if the case went on, the best report is given by Spedding.(*b*) "Forman's book was shewed," in which the wizard had noted particulars of his clients' cases. "There was much mirth made in the Court upon the shewing this book; for the first leafe my Lord Coke lighted on, he found his owne wife's name."(*c*) Asked whether she had anything to say in mitigation of judgment, the Countess replied, "I can much aggravate, but nothing extenuate my fault. I desire mercy, and that the Lords will intercede for me to the King." Sentence of death having been pronounced, the prisoner was taken back to the Tower.

The arraignment of Somerset forms the Fifth Act. If the Countess gave the Crown but little trouble it was not so with her noble husband. Bacon had the handling of the case and consulted the King at every step. Coke's judicial pronouncements of the Earl's guilt were much stronger than the proofs, and James was very anxious that Somerset should confess, and throw himself on the Royal mercy. But, perhaps because he had no great faith in that quality, the Earl persistently refused; he preferred the sporting chance of an acquittal. The Attorney-General wrote to the new Favourite, who was naturally much interested in the prosecution of his precursor, "That same little charm which may be secretly infused into Somerset's ear some few hours before his trial, was excellently well thought of by his Majesty."(*d*) James was at his old tricks; but the case called for the exercise of all his vaunted "Kingcraft." Bacon submitted to his Royal master the heads of his

(*a*) Chamberlain to Carleton, 18th May 1616.
(*b*) *Bacon*, xii. 297–305. (*c*) Weldon, p. 111.
(*d*) Bacon to Villiers, 2nd May 1616.

intended charge, which, with the King's marginal notes, are instructive reading.(*a*) Among the things Bacon proposed to prove is "That Somerset, with others, would have preferred Lowbell, the apothecary, to Prince Charles," upon which his Majesty has this "apostyle": "Nothing yet proved against Lowbell." And good care was taken that nothing ever should be. Notwithstanding all the inducements that could be offered, the prisoner continued steadfast in his refusal to confess. He seems to have been satisfied that James would not dare to bring him to the bar, but a visit from the Commissioners disposed of that confident expectation. Seeing that the King meant business, Somerset then threatened that if tried he would make a certain disclosure. That James was seriously alarmed is beyond doubt; the sole question is as to the nature of the secret. What was to be done "if my Lord of Somerset would break forth into any speech of taxing the King"? Bacon arranged with the judges that he should be "interrupted and silenced."(*b*) To prevent any dangerous disclosure, says Weldon, Somerset at his trial "had two servants placed on each side of him, with a cloak on their arms," who had peremptory orders "if that Somerset did any way fly out on the King, they should instantly hoodwink him with that cloak, take him violently from the bar, and carry him away,"(*c*) and the trial was to go on without him. A curious instance this of what Bacon calls his Majesty's "princely zeal for justice." But the cloak, as we shall see, was not required.

On the night of the Countess's condemnation, Sir George More, who had succeeded Elwes as Lieutenant of the Tower, warned his prisoner to be ready for trial next morning. The Earl "did absolutely refuse it, and said they should carry him in his bed; that the King had assured him he should not come to any tryal, neither durst the King bring him to tryal."(*d*) Though the hour was midnight Sir George

(*a*) Spedding's *Bacon*, xii. 286–289.
(*b*) *Ibid.*, xii. 295.
(*c*) Weldon, p. 118.
(*d*) *Ibid.*, p. 115.

hastened down to Greenwich, where the Court was then in residence and his Majesty in bed. He "bounseth at the back stayres as if mad," and insisted that the sleeping monarch be roused to hear his news. The King fell into a passion of tears: "On my soule, Moore, I wot not what to do!" cried the awakened Solomon. "Thou art a wise man; help me in this great straight, and thou shall finde thou dost it for a thankful master." This he said with other "sad expressions."(*a*) Promising to do his best, Sir George left the Palace and returned to the Tower at three in the morning. Probably the time had come to try his Majesty's "little charm." Whatever arguments were used proved effectual, for at eight o'clock the prisoner went quietly to meet his fate.

A distinguished audience filled Westminster Hall on 25th May 1616; "more ladies and great personages," says Chamberlain, "than ever I think were seen at any trial." Of the proceedings there are two versions: one in Howell's collection;(*b*) another, "The Arraignment of the Earl of Somerset," first printed by Amos.(*c*) In the space at my disposal it is impossible to give any adequate account of the trial; no abridgment would do it justice, and those interested may read it at large in one or other of these forms. (The type of Amos is less murderous than that of Howell.) The prisoner having pleaded not guilty, Bacon rose to deliver his "Charge by way of Evidence." "All the world by law is concluded to say that Overbury was impoisoned by Weston," he told the Peers; "but the question before you is of the procurement only, and of the abetting (as the law termeth it) as accessory before the fact." With reference to the extraordinary intimacy which subsisted between Somerset and Overbury, "I will undertake," said he, "the time was when Overbury knew more of the secrets of state than the Council-table did." He showed how the friendship "ended in mortal hatred on my

(*a*) Weldon, p. 116. Weldon had this "from Moore's owne mouth."
(*b*) *State Trials*, ii. 965–1022. (*c*) *Great Oyer of Poisoning*, pp. 122–159.

Lord of Somerset's part," owing to Overbury's opposition to the marriage, which drew upon him "two streams of hatred," one from Lady Essex, the other from Somerset. "A third stream" proceeded from the ambition of Northampton, jealous of Overbury's influence. "So it was amongst them resolved and decreed that Overbury must die." He described how Overbury was "trapped" into the Tower, how the appointments of Elwes and Weston were contrived, and what devices were used "to hold and keep him there."

> Then must Franklin be purveyor of the poisons, and procure five, six, seven several potions, to be sure to hit his complexion. Then must Mrs. Turner be say-mistress of the poisons to try upon poor beasts, what's present, and what works at distance of time. Then must Weston be the tormentor, and chase him with poison after poison: poison in salts, poison in meats, poison in sweetmeats, poison in medicines and vomits, until at last his body was almost come, by use of poisons, to the state that Mithridates' body was by the use of treacle and preservatives, that the force of the poisons were blunted upon him: Weston confessing, when he was chid for not dispatching him, that he had given him enough to poison twenty men.(*a*)

In all this Bacon maintained that Somerset was the "principal practiser."

The Attorney-General then adduced evidence in support of his case. The confidential relations between Somerset and Overbury and their falling out were proved by servants of the latter, who spoke to meetings and correspondence between them. Overbury's letters from the Tower showed how he had been "trapped." The Countess's attempt to have him assassinated, of which Somerset admitted knowledge, was proved by the gentleman sought to be employed. The placing of Elwes and Weston was proved by the admissions of Elwes and of Monson to have been effected by Somerset and Northampton: Overbury was committed to the Tower on 30th April; Elwes appointed Lieutenant on 6th May, Weston made gaoler on the 7th. Overbury's father proved that Somerset advised him not to petition

(*a*) Spedding's *Bacon*, xii. 316.

the King in his son's behalf lest it should hinder his release; Sir John Lidcote stated that though he at first believed Somerset to be Overbury's friend, he became convinced that he (Somerset) was playing a double game. The strictness of Overbury's confinement was proved by Monson and by Overbury's servant to be by direction of Somerset and Northampton. Somerset's interest in the progress of Overbury's illness was proved by Franklin, Elwes and Lobell. The proof of Somerset's share in the actual poisoning is by no means so clear. Even if guilty he did not need personally to take a hand in the game: the actual slaying might be left to his lady's syndicate of murderers. The only points established against him in this regard were (1) the sending to Overbury in a letter a white powder which made him very ill, and (2) the sending to him of the tarts. Poisoned tarts were certainly sent by the Countess, but there was no proof that those sent by Somerset were poisoned. The destruction and misdating of letters, as proved, was highly suspicious, as also were his repeated attempts to obtain from the King a general pardon in the largest terms, which would have covered his complicity in the murder.

My Lord in his defence admitted the quarrel with Overbury, whose imprisonment he had "plotted" with Northampton to prevent his interference with the marriage; but denied that he desired his death, ever sent him any poison, or knew of the attempts by the Countess and her agents upon his life. As to his tampering with the letters and his endeavours to obtain a pardon before he was suspected, the prisoner had no satisfactory explanation to offer. "His answers," says a eyewitness, "were so poor and idle as many of the Lords his Peers shook their heads and blushed to hear such slender excuses from him of whom much better was expected. The only thing worth note in him was his constancy and undaunted carriage in all the time of his arraignment."(*a*) The Lord High Steward

(*a*) Sherburn to Carleton, 25th May 1616.

(Ellesmere) having summed up the evidence, the Peers, after an hour's deliberation, returned a unanimous verdict of guilty, and Somerset was sentenced to death.

By no one had the verdict been awaited with more anxiety than by his Majesty at Greenwich. The four letters of James to Sir George More, written shortly before the trial, show his vital concern in the issue.(*a*) Of his demeanour on the fateful day we have two accounts. The King was "so vital sad and discontented, as he did retire himself from all company, and did forbear both dinner and supper until he had heard what answer the said Earl had made."(*b*) "But who had seen the King's restlesse motion all that day, sending to every boat he saw landing at the bridge, cursing all that came without tidings, would have easily judged all was not right, and there had been some grounds for his feares of Somerset's boldnesse; but at last one bringing him word he was condemned and the passages, all was quiet."(*c*) This vivid relation was "told *verbatim*" to Weldon by Sir George More. The doom pronounced and the secret unrevealed, James was a new man. On 13th July he pardoned the Countess, though the imprisonment in the Tower was not remitted; but the Earl's pardon was delayed by a circumstance typically Jacobean. The King wished to bestow upon the new Favourite the manor of Sherborne, which of old he had wrested from Raleigh, and made Somerset's pardon conditional on his agreeing to give up the estate to his successor; but to this cynical bargain the Earl would by no means consent.(*d*) So for five years longer he and his wife were kept prisoners in the Tower, till on 18th January 1621 they obtained their release.(*e*)

What, then, was this tremendous secret that could so shake the majesty of England, and despite the King's

(*a*) *Great Oyer of Poisoning*, pp. 471–476.

(*b*) Sherburn to Carleton, 31st May 1616.

(*c*) Weldon, pp. 118, 119. (*d*) Gardiner, ii. 363.

(*e*) *State Trials*, ii. 1004. His formal pardon was not granted till 1624, a few months before the King's death.

solemn oath to the contrary, suffice to save from the scaffold two forfeited lives? Contemporary opinion associated it with Prince Henry's death; but *pace* Professor Amos, nobody believes that now. Mr. Gardiner thought it was something connected with the Spanish pensions; if so, the relation of effect to cause seems scarcely adequate.(*a*) In the judgment of one so deeply versed in the secret history of the time as the author of *The Fortunes of Nigel*, it related to the intimacy between James and the Favourite. "The fatal secret," writes Sir Walter, "is by some supposed to refer to the death of Prince Henry; but a cause yet more flagitious will occur to those who have remarked certain passages in the letters between the King and Buckingham, published by the late Lord Hailes."(*b*) Scott notes, too, "the strange letter written by the disgraced favourite to James, in which he [Somerset] obviously claims merit for not having discovered some infamous secret," which, he remarks, "probably relates to the secret practices of the monarch himself."(*c*) But this was a secret that Somerset shared with "Steenie" and the other minions, and as such was no secret at all. It rather appears to me that his Majesty himself supplies the clue. In one of his letters to Sir George More, already cited, James writes:—

> It is easy to be seen that he [Somerset] would threaten me *with laying an aspersion upon me of being in some sort accessory to his crime* . . . I pray you to urge him, by reason that I refuse him no favour that I can grant him, without taking upon me *the suspicion of being guilty of that crime whereof he is accused.*(*d*)

If James was privy to Somerset's plot for destroying Overbury, the matter is plain enough; and of the King's significant susceptibility to such suspicion the passage above quoted affords ample proof. It seems unlikely that Somerset should make so grave a charge without some grounds; but as to this we have no certainty, and his

(*a*) *History*, ii. 362 *n*. (*b*) *Somers' Tracts*, ed. Scott, ii. 488 *n*.
(*c*) *Ibid.*, ii. 233 *n*, 355 *n*. *Cf.* Sir Walter Scott's notes, pp. 262 *et seq.*
(*d*) *Great Oyer of Poisoning*, pp. 474, 475.

Majesty, like lesser rogues, is entitled to the benefit of the doubt.(*a*)

By an ingenious refinement of cruelty the fallen Favourite and the partner of his shame were, in terms of their release, compelled by Order of Council to live together at Lord Wallingford's Oxfordshire seats, Grays or Cowsham, "and remain confined to one or other of the said houses, and within three miles' compass of either of the same." (*b*) Thus, says Wilson, "holding their lives by a Lease of the King's Will, living in a private and obscure condition," they spent the wretched residue of their days. "That Love that made them break through all Oppositions, either by her declining to some new Object—as was the common rumour—or his inclining to reluctancy for the Old, grew so weak that it pined away; and they lived long after, though in one House, as Strangers one to another." (*c*) For them life must have been as terrible as for Thérèse Raquin and her lover Laurent, with the dead man between them. The Countess escaped first, dying in 1632, sixteen years after the trial, at the age of thirty-nine. Of her last illness and death Wilson paints a ghastly picture; it had been better for her had she made a decent end at Tyburn.(*d*) The Earl, lagging superfluous on the stage, survived till 1645. Even then he was only fifty-three. From King Charles, who always hated him, he received no countenance. He had lived to see the splendour of Buckingham quenched suddenly in blood. Perhaps he envied "Steenie" the swift blow that finished his career; compared with his own long-drawn punishment, Felton's knife would seem almost merciful.

(*a*) Mr. Ewald, however, is satisfied of the King's guilt, as also are Professor Amos and Mr. Bisset, *op. cit.*

(*b*) *State Trials*, ii. 1005. (*c*) Wilson, p. 83. (*d*) *Ibid.*

MR KIRKWOOD AND THE KIRK;

OR THE HOLY WAR

MR. KIRKWOOD AND THE KIRK;

Or The Holy War

> Let the righteous rather smite me friendly : and reprove me.
> But let not their precious balms break my head : yea, I will pray yet against their wickedness.
>
> —*The Psalter or Psalms of David.*

ELSEWHERE I have given an account of the contention between the Town Council of Linlithgow and Mr. James Kirkwood, sometime schoolmaster of that burgh and author of certain learned works designed for the instruction of youth.[1] Having seen the dominie safely out of the frying-pan at "Lithgow" and about to enter with a confident mind into the fire prepared for him at Kelso, I bade him farewell for the time, promising that should his woful experiences prove acceptable to my readers, I would some day take up again the tangled skein of his affairs. But, alas for the apathy of reviewers, this overture met with no response, till at last in a notice by a judicious critic I read these heartening words : "Particularly will they [my readers] expect to hear more of Dominie Kirkwood's quarrel with the Kirk Session and Presbytery of Kelso." Thus assured at least of one sympathetic ear I resume the tale.

The chronicle of this Holy War is to be found in a stout quarto pamphlet of one hundred and forty-four execrable pages—I speak typographically—entitled : "Mr. Kirkwood's Plea Before the Kirk, and Civil Judicatures of Scotland. Divided into Five Parts. *Ridentem dicere Verum. Quid vetat?* Horat. *Sat.* I. London, Printed by D. E. for the Author. 1698." It is dedicated to his honourable patroness, the Countess of Roxburgh,[2] whose

[1] "The Twenty-Seven Gods of Linlithgow," *Juridical Review*, June 1921 ; reprinted in *Glengarry's Way and Other Studies*, 1922, pp. 197–226.

[2] Lord Roxburgh was then a minor.

favour in nominating him to the Grammar School of Kelso "did give the first Birth to the Subject contain'd in this Book." The author thus contrasts the conditions of his two campaigns, as prosecuted by him respectively in the Court of Session and before the tribunals of the Kirk :—

> That Conflict, which Mr. K. had some years ago with the Town Council of Lithgo, was indeed a mighty sore Bout, yet nothing in compare of this. There he fought with the Bulls of Bashan, Twenty-seven Gods as they stile themselves in one of their Informations given in to the Lords of Council and Session; Here with the Beasts of Ephesus, a Company of Savage and Wild Boars. There, those mighty Giants, before they came out to battle, were strongly fed on the fat of the Land, the public Stock of the good Town: for it cost not them one Farthing, but rather they made advantage by it, more being allowed them than their ordinary Expence. Here these wild Creatures have tear'd out and devour'd his very Bowels, consuming by eating and drinking what he and his Family should have lived on, as shall be made appear in its place. There he fought in a fair and open Plain in view of the World, where he could not be attacked at a disadvantage. Here things were carried on in secret; yea, his very Accusers sat with the Judges, while he was kept without doors. There, his Judges [were] neither winners nor losers; Here, Parties, mightily byassed both as to Credit and Interest. There, were persons of Honour, Integrity, Knowledge and Experience; Here, (for the most part) mean, ignorant and unexperienced. There, when a point was manifest and clear, an Interlocutor pass'd in his Favour, assoiling him from that Particular; but Here, tho' Matters be as clear as the Sun-beam at mid-day, yet no Exculpation can be had from the pretended Crime.[1]

Indeed, as he avers, but for his strength of constitution, firmness of purpose, activity in prosecuting it, innocence of "the hellish Calumnies laid to his Charge by wicked Men," and the support and countenance of his friends, "he had been swallowed up quick long before he wrestled through the tenth part of this Process; in plain terms, he had been in his Grave, and his Family beggar'd and disgrac'd for ever."

The dominie supplies for those unacquainted with his former woes a brief summary of his persecution at the hands of the Twenty-seven Gods. How, after fifteen years' service

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[1] *Mr. Kirkwood's Plea*, Preface, iv.

as schoolmaster to the burgh, at the Revolution of 1689, he, being an Episcopalian and the new Council "all Biggotly Presbyterian," was ordered to forsake the worship of the Church and go to meeting in "the Provost's Kitchin," which he refused to do. How the Provost, Walter Steuart of Pardovan, and his civic satellites determined to deprive Mr. Kirkwood of his office; and failing after protracted litigation legally to effect their purpose, took the law into their own hands and ejected him and his family by force of arms, destroying his property in the process, for which offences the magistrates were by the Privy Council "Fin'd in 4000 Merks Scots for his behalf," though their victim was never a penny the better. How, having quitted Linlithgow for the capital, he "came to have the greatest private School that ever was in Edinburgh, and certainly by far the most gainful"; and how in an evil hour, yielding to Lady Roxburgh's insistence, he accepted the charge of Kelso. He had already received several better offers: the Chair of Greek and Latin in the University of James Town, Virginia; the Chair of Humanity at St. Andrews; the Grammar School of Duns; and a Free School in Ireland, none of which, for divers reasons, had he seen his way to accept. One regrets that he did not undertake the Irish job, which probably would have furnished matter of entertainment. Still, as we shall see, things were lively enough at Kelso.

That burgh was naturally much flattered by obtaining the preference; "the Town return'd her Ladyship most hearty thanks for her diligence in the affair," and the terms of the appointment were embodied in a formal contract between the several parties concerned. These were "that they [the town] should Yearly pay 200 Merks Scots as their proportion of Mr. K.'s Sallary, the Heritors pay other two, and the Kirk Session 50; which with the Casualties of Baptisms, Marriages and Testimonials, is all that Mr. K. has of Sallary, out of which he is oblig'd to pay his Doctors, as he and they agree." The trouble arose over "the said

50 Merks and the Casualties of the Church," claimed by the dominie in virtue of his call. Since the Reformation, he explains, "the School-Master, being always Session-Clerk, still had a Sallary from the Session." There had been for six months a vacancy in the school before Mr. Kirkwood's entry, and "the Members of the Presbytery and Elders in Kelso, having lick'd their fingers with the said Profits during the said Half-year, were loth to part with them." So soon as the dominie came to take up his new duties Lord Roxburgh's baron-bailie intimated to William Christie, who had acted as "Collector of the said Casualties," that Mr. Kirkwood in future would collect these for himself. "The said Wm. protracted as long as he could"; and Michael Fisher, a brother elder, then acting as session-clerk, was equally slow to relinquish office. Apart from "real Profits" the loss of such perquisites as "2 or 3 Scots Pints of Ale, when a Bridegroom came with his Bride to give up their Names," and "not a few Pints of good Ale and Nogans of Brandy" on divers other occasions, contributed not a little to their reluctance.

In January 1693 the baron-bailie presented to the Presbytery in the dominie's behalf a petition, pointing out that "past memory of Man the School-Masters of this place have always precented to the Church and performed other Duties belonging to that Office"; that the patrons, being well advised not only of Mr. Kirkwood's abilities and qualifications, "but of his orderly Carriage and Compliance with the present Church Government," appointed him to the post of schoolmaster, with all the emoluments enjoyed by his predecessors, including the casualties of the church; and that there being then no placed minister at Kelso, it fell to the Presbytery to "settle" him (Kirkwood) accordingly. The Presbyteries of Jedburgh and Kelso were at that time conjoined, the Rev. Mr. Semple, minister of the former parish, being the presiding genius of both. That gentleman called on Mr. Kirkwood to discuss his claims as clerk and precentor, and was curious to have particulars of

his relations with his late employers, the Twenty-seven Gods. Mr. Semple desired specially to know "what power Magistrates have in the matter of turning out their School-Master"; the Jedburgh dominie, he mentioned, had lately been dismissed for "sleeping in the Kirk in time of Divine Service"—the minister, as appears, was not an awakening preacher. Mr. Kirkwood proving a perfect mine of information on the subject, Mr. Semple "arose, saying it was time for him to go home," and his host promised to send him the printed papers in the Linlithgow litigation. In transmitting these documents the dominie took occasion generally to complain "that it was neither Decent nor Orderly that Weavers, Taylors, and Livery-Men should be set up to Officiate as Precentors, and in the mean time Masters of Arts, whose Right it is to be there, kept down"; and in particular, "that both should at one minute take up two different tunes, the Weaver *Stilt* tune, the other *London*, making indeed a sweet Melody, each of them with the help of their own Consorts crying and sqweeking aloud, to drown the voice of their opposites."

As to what took place at the Presbytery meeting "you must resolve to live in the dark with Mr. K." The business, he says, was "a very deep and hidden Mystery." His letter was read by the minister to the brethren, whereupon there was a very warm debate; the Jedburgh members thinking "the Worship of God Defective and Imperfect" at Kelso, as indeed there is but too much reason to believe it was; "the Kelso elders looking one to the other as if their Noses had been bleeding." Mr. Kirkwood had evidently drawn blood. In the end the Presbytery decided that they could not competently act in the matter, "it belonging to the Minister and Elders of the place." There being then no minister at Kelso Mr. Kirkwood justly deemed this finding to savour of evasion. He does not dwell upon the matter, holding it "greater Wisdom to observe the Proverb, which we confess is more significant than cleanly: 'The more you trample on a T . . d, it becomes the

broader.'" The elders next sent to him one of their number, offering to pay him the casualties if he would acknowledge in writing that this was done "as a Gratuity from them and during their pleasure, and that they should be the Collectors thereof." The dominie, holding up his forefinger, characteristically replied, "he would rather that a Joynt were cut off it than subscribe such a base Paper." So on 28th April 1694 the Presbytery passed an Act "that these Profits should not come in to Mr. K." and there for the time the matter rested.

Hitherto, observes our author, "you have only seen a few Preparations for War, a little Brandishing, as 'twere, of Weapons; at most some Light Skirmishes, without Effusion of Blood. But you may assure yourself hereafter you shall see terrible Fights, many Bloody and Cruel Battles, such as never before were to be seen in Christendom, far less acted within the Walls of the House of God."

Now in the fulness of time, to wit, on 24th January 1695, a minister was at length appointed to Kelso. The order of his coming was, according to the dominie, irregular and illegal. After five years' "very hot Contest" between the heritors and the elders as to placing a minister, there was put into the hands of the Synod by the heritors and others in the parish a blank call, which was afterwards filled up with the name of Mr. Guttry, of Oxnam. The elders, dissatisfied, set about getting signatures for a new call to Mr. Jaque, of Biggar,[1] and one, a cooper, was deputed to obtain subscriptions. "Never did a Beggar go more carefully from door to door, or was more unwilling to go without his alms, than he," says Mr. Kirkwood, and he gives some amusing instances of the cooper's methods. Mr. Jaque received the appointment, though "not so much as one Heritor subscribed the Call."

[1] William Jaque or Jack, sometime minister at Clapham and in Ireland; Biggar, 1692; Kelso, 1695; died 1699.—Scott's *Fasti Ecclesiæ Scoticanæ*, i. 210; ii. 456.

Biggar friends warned him that he might not find his new parish a bed of roses. "That's nothing," answered the divine, "I love to be in Action," a taste for which he had acquired during his ministry in Ireland. His nephew remarked to a near relation of Mr. Kirkwood that his reverend uncle "would keep them all in hot water, and make them eat their meat in order"; to which the other, with well-grounded confidence in his own kinsman's prowess, replied, "I am much mistaken if ever your Uncle was so well match'd in his life. I hope he who vanquish'd the Twenty-seven Gods of Lithgo will not be easily run down by one single Man." His Biggar flock, upon the removal of their shepherd, observed to the Kelso carrier conducting the flitting: "Take him to you, take him to you, with God's blessing, for much Sap and Sorrow we have had since he came amongst us." Indeed, as our author learned, Mr. Jaque, "tho' an Ambassador of everlasting Peace," had lived all his life in contention with his neighbours, and possessed the properties of the salamander, "a Creature that can live in Fire without being burnt." Such being the new minister's reputation, the dominie, like the experienced warrior he was, girded up his loins and made him ready for battle.

From the outset of his Kelso ministry Mr. Jaque, "instead of seeking to do good to their Souls," began "to Hector and Domineer over People, and to abuse and calumniate them in a most unchristian manner." He denounced from the pulpit those who differed from him in church matters as "a communion of Devils, a company of prophane Men and Women, etc.," including such general vituperative epithets as "notorious Lyars, companions of that Hellish Crew that go to the [Episcopal] Meeting-House," Mr. Kirkwood being later specially distinguished as "the Devil's Agent and Factor for Hell." Whatever his other virtues charity, as appears, was not Mr. Jaque's strong point. As an example of his high-handed treatment of his parishioners the dominie mentions that the minister

appropriated and altered to his wife's use in the church a desk or seat belonging to a gentlewoman : the reason of the alteration being " because Mrs. Jaque is so mighty gross that, as the seat was formerly, she could not have sufficient room in it." And this despite the owner's protest to the elders ; but " Mr. Jaque did what he pleased in Session."

" Now begins hot work ; yea, fierce and bloody War, as you shall see before we come to an End." On 11th March Mr. Kirkwood presented to the Kirk Session a petition praying to be established in his offices and emoluments conform to his contract. The Session sent for him and demanded production of his " testimonials." These, but for two instances, were even by his enemies unexceptionable. A certificate to him and his wife by the minister of the French congregation in Edinburgh was objected to ; Mr. Kirkwood explained that his wife being a Frenchwoman and he himself having no seat in Greyfriars Church, in which parish he lived, he had consulted the minister, Dr. Rule, as to his wish to worship along with his spouse in the French chapel, which the Doctor deemed most proper and certified accordingly. The other objection taken was to a certificate by the Rev. Mr. Seton, minister of Linlithgow during the dominie's sojourn in that inhospitable burgh, to which the Session excepted as not being granted by his Presbyterian successor—who was not " settled " in his charge until some months after Mr. Kirkwood had shaken the dust of Lithgow from his feet for ever ! The dominie having successfully parried these thrusts, Mr. Jaque unmasked his battery.

" What has been your carriage," said he, " in former times we shall not now canvass ; but I'm informed of very strange things you have done since you came to this country. They tell me that a woman came to your house in this Town and father'd a child on you." Mr. K. was not in the least mov'd with this Story, of which you shall have an account within a little. We go on to tell you of a second blow, far more terrible than the former ; a blow indeed that almost struck Mr. K. dead to the ground. " I am also informed," continued Mr. Jaque, " that you being in the House of Sir John Home of Blackadder, did struggle so rudely with a

young Woman, one of his servants, that she screek'd and cry'd so terribly that Sir John came running into the room, and rescued her out of your arms."[1]

Mr. Kirkwood, horrified at this shocking slander, indignantly and emphatically repudiated it. The first allegation, he said, would on examination prove to be a "Cheat"; as to the other, he begged Mr. Jaque to communicate with Sir John Home, who would satisfy him of its utter falsity. But the Session refused to make any inquiry whatever, and referred the matter to the Presbytery. The same day the Presbytery, without calling Mr. Kirkwood before them, referred the business to the Synod. "Was ever the like done by any Judicature on Earth till now?" asks the dominie. "No, certainly. The very Heathens would abhor such a Procedure. The civiliz'd Roman, Festus, positively refused to hear Paul's Accusers till he was present to answer for himself." Mr. Kirkwood's first act was to see Sir John Home, from whom he obtained a declaration in the following terms:—

I, Sir John Home of Blackadder, being inform'd of a Scandalous Report of Mr. J. Kirkwood, School-Master in Kelso, his having behaved himself immodestly in my House; and it being incumbent on me, not only as a Christian, but as a Member of a Civil Society, to endeavour the preservation of my Neighbour's good Name, Do hereby testify and declare that in my life I never saw or heard any thing that might give the least ground for any such Calumny; and particularly as to what he is accus'd to have been guilty of in my house, I do again renew my Declaration that never any such thing passed; but that the whole story from the beginning to the end in all its Circumstances is a most ridiculous, impertinent and malicious Lye; which I will declare on all occasions, and do here give under my Hand and Subscription, at Stichel, the 18th day of March 1695.

Sic subscribitur, JOHN HOME.[2]

When the dominie showed this document to Sir William Ker of Greenhead, one of the principal heritors, that gentleman remarked, "You are now as sure as the Bass, and may defy them all and vex them to boot." But Sir William underestimated the resources of the righteous.

[1] *Mr. Kirkwood's Plea*, p. 22. [2] *Ibid.*, pp. 24–25.

On 19th March Mr. Kirkwood presented to the Synod a petition, setting forth that he had applied to the Session to be settled in his offices, and that instead of answering his request they had accused him of "several most Horrid Crimes and Immoralities, and without the least attempt to verify the same, immediately referred the business to the Presbytery; the Presbytery, without so much as once speaking to him or calling for him, put it into the hands of the Synod, the Elders and others in the meantime spreading abroad through the Kingdom most dreadful and hellish Calumnies and Defamations against him." He concluded by begging the reverend Synod to allow him to answer these charges, that his innocence might appear and his defamers be proceeded against according to law.

Meanwhile the unhappy dominie found himself "almost in every bodies mouth the main Subject of discourse, things being industriously dispers'd through Town and Country to disgrace him, and Wives in Kelso representing matters beyond what Modesty can express." When he approached the kirk where the Synod was then in session he found a great company of people assembled in the kirkyard.

> Some went round as if they found a Covey of Partridges, looking a-squint to see his Face, and returning to their Companions said, "Yon's an auld body, no question he's past Fifty; they say he's a Grandfather and has a Daughter married in this Town. 'Tis time he were forgetting such pranks." "Certainly," says another, "he has been keen that way when he was young, who is so forward now when he's old." Mr. K. overhearing this, said with a smile to those that were by him, "The contrary is rather true; he has been saving in his youth, and therefore has the more to spare in his old age." With this all rush into the Church.[1]

After long delay Mr. Kirkwood was called in before the Synod to hear his petition read, together with the reference of the Session to the Presbytery. The latter document he denounced as "a most Absurd, False and Calumnious Paper." He pointed out that Mr. Jaque and his elders were at once the accusers and the only witnesses. With

[1] *Mr. Kirkwood's Plea*, pp. 26–27.

regard to the allegation "that he was always an Enemy to the Presbyterians, and that at Lithgo he was very offensive to all that fear'd God," he adduced many instances of his kindness and liberality to distressed Presbyterians there before the Revolution. The Synod, having reprimanded him for being "so brisk" with them, ordered the accused to answer the charges in writing and appointed a committee to consider same.

The gravamen of the indictment consisted in what Mr. Kirkwood calls "The Culross Cheat" and "The Business in Blackadder." As to the former, he explains that in the summer vacation of 1692 he set out to visit his old friend and patron, Lord Kincardine, in Fife. Embarking in the Bo'ness ferry-boat for Culross half an hour before sunset, he found several acquaintances among the passengers with whom he exchanged news. "A young Woman in no very good Dress, unknown to any one in the Boat," joined in the conversation. She had been, she said, in the service of Sir William Ker of Greenhead, who sent her to Edinburgh with letters to my Lord Ballantyne, then a prisoner in the Castle. Being apprehended in an attempt to deliver these, she was searched, the letters were discovered, and she herself was committed to the Canongate Tolbooth, where she had lain seven months and whence she was but newly released. She was crossing the water to visit an uncle in Fife who owed her £10 Scots, but meantime she had no money for her "Fraight." The good-natured dominie, believing the tale, paid her fare, and recommended her to the persons with whom he lodged that night at Culross. The stranger shared a bed with "Brown of Thornidikes his Ladies Gentlewoman," her benefactor occupying an adjoining room. Next day betimes "Mr. K. takes his morning drink with his Landlord, giving a share to the stranger, after which he goes to the Palace to see the Earl; she made towards her Uncle, and thus they parted, till January thereafter as you shall hear."

Now, in the course of conversation reference was made

to mine host's son-in-law, one "Mass John" Mercer, chaplain on a man-of-war, of whom nothing had been heard for a long time, and whose father was a farmer at Powmill of Adie. After the dominie's departure, the stranger, having made certain inquiries in the neighbourhood, set out for Powmill, where she represented herself as sent by lost "Mass John," then, she said, confined in the Canongate Tolbooth for political reasons—"he spoke some things about King James." He was soon to be released, but required money, clothes and linen. These tidings of the missing man were joyfully received. "All the things were sent, not with a common Servant but with a Neighbour, one whom Mr. Mercer thought he could trust; the Woman also went along with this Man, riding, forsooth, on a Horse like a Gentlewoman." When they reached Edinburgh she led her companion to an ale-house near the gaol, leaving him there while she went out to interview the prison authorities. Coming back presently, she said that the keeper would not admit them to see the prisoner, but that the money and goods were to be sent in, "Mass John" giving his receipt therefor, which she exhibited. The simple Fifer allowed the damsel to depart "with her arms full," and sat down patiently to await her return. It is needless to add that he waited in vain; after paying for their joint refreshment he sought the Tolbooth, only to find that no "Mass John" Mercer was ever heard of there, and so, a sadder if not a wiser man, he went home again to Fife. This instance of the stranger's guile unfortunately was not known to the dominie until later. "Posterity will call this a Perfect Comedy," he remarks; but there is another side to it: the feelings of the old father, and of the wife "who had mourn'd some years as a Widow"—the humour of the piece could hardly appeal to them.[1]

In January 1693 a Kelso fruit-seller, commonly called "Paty Peers," being in Dalkeith upon his affairs, agreed

[1] *Mr. Kirkwood's Plea*, pp. 33–36.

with a woman, seemingly in an interesting condition, "for so much to carry her to Kelso," where she put up at a house kept by one Nicol Somervail, of no very good repute. At nine o'clock that night Mr Kirkwood on returning home was about to lift the "sneck" of his door when he was accosted by a female voice in the darkness, "Ken you me, Sir?" "Woman, who are you?" rejoined the dominie; whereupon the unknown recalled herself to his recollection as his fellow-passenger to Culross. "Well, what's your will with me?" he asked. "I'm with Bairn," quoth the blushless stranger. "Base, unworthy woman," retorted Mr. Kirkwood, "what am I concern'd with that?" and so left her and went indoors, where he mentioned the incident to his wife. Next morning, by that lady's advice, he gave orders for the stranger's apprehension, but she had anticipated inquiry by disappearing before daybreak, having omitted in the hurry of her departure either to pay "Paty Peers" his hire or to defray the charges of her lodging. She was seen next day at Smailholm, "as Swamp,[1] they say, as an Eel," from which it would appear that her extremity was feigned; but Kelso knew her no more. The dominie afterwards learned "that the Woman was sent to him in a Jest by Mr. Pat. M'Dowgal, the Town-Clerk," since deceased.[2] It was like to prove no joke for poor Kirkwood.

"This Challenge or Accusation for not causing secure the said Woman could not have come so ill from any man on Earth as from Mr. Jaque; he sees a Mote in his Neighbour's Eye, but cannot discern the Beam that's in his own." On this text the dominie has some curious reflections upon Mr. Jaque's ménage at Biggar, including the conduct of a certain Madam Stones, an Englishwoman, who bore a child in his house; also as to the scandalous carriage of his handmaid Margaret, ironically called "The Good Lass," who plainly was other than a good one.[3] But I lack space and bold-

[1] Thin; not swelled.—Jamieson's *Scottish Dictionary*.

[2] *Mr. Kirkwood's Plea*, p. 37, *et seq.* [3] *Ibid.*, pp. 38–39.

ness further to behold the reverend gentleman's "beams." It would seem, however, that with so much glass about the manse Mr. Jaque had been wiser to refrain from stone-throwing.

"The Culross Cheat" thus exposed, there remains "the Business in Blackadder." This really is disposed of by Sir John Home's statement already cited, but the dominie adds the following details. Being upon a journey in vacance time, he spent a night at Blackadder in Berwickshire as the guest of Sir John and Lady Home. Next morning Sir John excused himself from further attendance on his guest, as his tenants "were pressing him to go tithe their Corns"; and Mr. Kirkwood, having borrowed his host's razor, "return'd again to his Chamber to take off his Hair." He then gave his crumpled cravat to the maidservant to iron, which she did, and on bringing it back she asked after her former mistress at Kelso and for Mrs. Kirkwood, whom she had known there. "Thanking her for the service she had done him, they parted," and the dominie went his way. By a fortunate chance Sir John's sister "was all the while in a Closet within the Chamber where they were, unknown to either of them, and heard every word they spoke." This lady corroborated Mr. Kirkwood's account of the matter, and the girl herself (whose name, whatever it was, ought to have been Susannah) flatly denied the "Horrid Lyes and Calumnies" of the elders.[1]

But unhappily for the victim of clerical malice it is much easier to set the ball of scandal a-rolling than to arrest its course. The affair "made a wonderful Buz through the whole Kingdom. It was in every bodies mouth almost the only Subject of discussion, flying from Town to Town like an Arrow, and still acquired more and more vigor." In Edinburgh the report ran that Mr. Kirkwood had "confess'd Adultery" before the Session, while the Blackadder business assumed the proportions of an aggra-

[1] *Mr. Kirkwood's Plea*, p. 41, *et seq.*

vated rape. When this rumour reached "the E. of Roxb.'s Lodging in the Cannon-gate," the Countess "blush'd"—little wonder—and the Laird of Drummelzier, her Ladyship's uncle, "became pale like the Earth." "From Edinb. it flies to Lithgo"—where doubtless it proved most acceptable hearing to the Twenty-seven Gods—with the addition "that Mrs. K. was dead out of grief and shame." Finally it "went over Seas, and paid a visit to both Armies in Flanders." And everywhere, with mankind's touching disposition to believe the worst of others, it was taken for gospel and the dominie's reputation was damned.

Meanwhile, the judicial "proceedings" of which Mr. Kirkwood was the subject did in no wise proceed. On 30th April 1695 the Committee began its sittings; the dominie appeared and craved that certain witnesses be cited and examined with reference to the Culross charge, also Sir John's maidservant, etc., as to the Blackadder business. But nothing was done, as some of the members were absent. A friend told him "that all the Ministers there present had formally engag'd and promised still to adhere one to another till they got him turned out," which reminded our author "of those persons who bound themselves by a Curse not to eat nor drink till they had kill'd St. Paul." In May the Committee met again; other members were now absent, so still nothing was done. "If you never proceed till you be all present," sarcastically said Mr. Kirkwood, "that may be *Ad Græcas Calendas*, or Nevermas; and so I must live and die in disgrace and infamy." On 20th August he was suddenly called before the Committee and informed that he would be given a "Libel" which he must answer within eight days. It was then the beginning of the summer vacation and he had several engagements in Edinburgh; with great difficulty he got the matter delayed till 10th September, the defences to be lodged by the 17th. This extreme urgency on the part of the prosecutors, who had been marking time since April, was sweetly reasonable.

As a member, with Mr. Counsellor Pleydell, of "the suffering and Episcopal Church of Scotland," and like him —*longo intervallo*—familiar with the profane practice of the Courts of Session and of Justiciary, I confess myself bewildered by the pious procedure of these tribunals of the godly. "Yea," as Mr. Kirkwood in his preface observes, "after a whole Libel consisting perhaps of 30 or 40 several Heads or Points is considered again and again, may be, in 20 or 30 Judicatures, and no ground found for a Sentence, yet no Absolviture can be obtained; but new Libels [are] received in." However much he may have suffered in the Linlithgow business by reason of the law's delay, he at least knew where he stood and to what charges he must plead; but now at the eleventh hour a volley of fresh accusations, hitherto unheard of, is discharged at his devoted head. These relate as well to his religious and political opinions, as to his moral conduct as a schoolmaster. He was guilty of Erastianism, Hobbism and Nullifidianism; he allowed his pupils to drink at his table and in his presence King James's health; when explaining to his class certain Latin terms "he used very obscene Expressions"; he was "much unpersuaded of the Morality of the Sabbath"; "he prostituted his Authority over his Scholars to contempt by playing at Foot-ball and Games with them"; he gave the boys a holiday at Yule "and other Superstitious days," contrary to an express Act of the General Assembly; he failed to make his family attend "the Ordinances of God," as performed in the parish church; and so forth. The damsels of Culross and of Blackadder, as a sort of ecclesiastical camp-followers, brought up the rear of these formidable battalia.

With the dominie's answers to the fifteen new charges of the libel I cannot deal in detail. He tackles these with all his old-time raciness and verve, to the high entertainment of his friends and the complete confusion of his enemies, had they been given grace to see it, but they were endowed even less with humour than with charity.

"These Exotick and strange words" of the theological offences, he tells us, "made a wonderful Noise through both Town and Country, every body enquiring at his Neighbour what sort of Crimes they were: Sorcery, Negromancy, or what else? 'Good Lord deliver us!' said they; 'he must be a strange kind of a Man.'" Visiting one day a dame of his acquaintance Mr. Kirkwood was thus addressed by her:—"'What wonderful kind of Crimes are these which the Elders now charge you with?' 'What Crimes mean you, Madam?' answered Mr. K., tho' he understood well enough what they were. 'They have been told me,' reply'd she, 'I believe a hundred times, but still I forget them. The Tails of the words are like that Beesom we sweep the Chamber with'—pointing towards it with her hand. 'Is't Hobbism, Madam?' answered Mr. K. 'Yes, yes,' said she. In a word, after some little Laughter and a Cup of good Ale, he explained them to her," greatly to the relief of the old lady's mind. What weird and recondite iniquities she conceived the dominie to have committed we shall never know.

If his pupils drank Jacobite toasts they did so, he says, without his knowledge or encouragement. As to his "obscene" translations from the classics, he has some sensible remarks upon the delicate task of the schoolmaster in dealing with inquisitive, and not always ingenuous, youth. After disposing of the specific instances alleged, the dominie concludes:—

'Tis here to be considered that there is a vast difference between telling a thing openly in a School before all the Boys, and to one or two in a corner, or apart by themselves. The Age also, the Nature and Disposition of a Boy, with other Circumstances, are in this case very considerable. Mr. K. might have been plainer with that Boy, and yet modest enough. . . . He can adduce hundreds that have been his Scholars to attest that he passeth obscene Words and Sentences occurring in Authors, not so much as glancing at them, much less exponing and least of all explaining them; though often curious Boys press hard to know them things.[1]

[1] *Mr. Kirkwood's Plea*, p. 61.

With regard to the "Morality of the Sabbath" Mr. Kirkwood's views, being some two hundred years in advance of his age, could hardly prove acceptable to the contemporaneous godly. For the "football" charge, he pleads guilty to attending the school matches. There was keen rivalry between the boys from the Merse and those from Teviotdale:

> Mr. K. having a very flourishing School of Boys out of both these Shires, those of the one gave a Challenge to th' other, to try who should carry the Prize at that Game. They were pretty equal in number, and if they had been fighting for a Crown they could have done no more. After many days, they came off equal. Mr. K., partly to inure his Scholars to speak proper Phrases at that Sport, partly to prevent any hurt they might do one to another at so violent a Game, resolv'd to go see fair play. He does not deny but when the Ball came to his Foot, he touched it. A most heinous Crime indeed; and well deserves Deprivation![1]

The master was plainly as good a sportsman as his pupils. One would like to have heard the "proper Phrases" employed by these young Borderers, and to have seen the dominie deliver that "touch."

As for the crime of the Christmas holidays, Mr. Kirkwood points out that it was committed by the patrons of the school and by the local magistrates, who "give liberty to the Scholars at that Season of the Year, conform to an old Custom, to exercise themselves a day or two on the Ice. So that they (if there be any fault in it) and not he, are blame-worthy." The other holidays libelled were taken by the boys themselves, in pursuance of the ancient rite of Barring-out: "the scholars possessing themselves of the School in the Night-time, Baracaded Doors and Windows, and kept it out with Pistols, Swords, Staves, Cudgels and other Arms. Yet after much work Mr. K., not without some hazard of his Life, broke in at a Window, and chastised all he got in School." This time-honoured and high-handed practice of compelling a holiday was long in use in Edinburgh, and one such exploit of the High School

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[1] *Mr. Kirkwood's Plea*, p. 63.

boys in 1595 cost the life of Bailie Macmorran, who in attempting to restore order was shot dead.[1]

His alleged failure to cause his family attend the kirk is, the dominie avers, "a most abominable Calumny" both on him and them, for despite his evil treatment by the minister and elders he himself, with his children and servants, "give due attendance" at the parish church. His wife, he admits, declines to do so. "After the business of Blackadder, indeed, she had no heart to hear him [Jaque] Preach; and the better he Preached, she thought him the worse Man." She heard him, says the dominie, "with a wonderful Reluctancy of Spirit"—small the wonder, when we remember how wickedly he had maligned her husband—and found that she "reaped more good at the [Episcopal] Meeting-House," as in the circumstances is not surprising.

Article 15 of the libel charges Mr. Kirkwood with discouraging Mr. Jaque in his ministerial work by "unjustly detaining from him the Possession of his Brew-House." What ghostly function was thereby rendered inoperative does not appear, Mr. Jaque being quite able to brew lies without any material aid. The legal proceedings arising out of this matter, a mere bud or blossom upon the spreading tree whose growth was so assiduously fostered by the Kirk judicatures, are described at large by the dominie under the engaging title, "An Account of the Business about the Brew-House, or Controverted Vault."[2] With characteristic thoroughness he begins by detailing his social relations with the minister from the time of his induction. These were at first on Mr. Kirkwood's part entirely amicable. The manse adjoined the schoolhouse, "there being only a hedge between the two yards," and the dominie called upon his reverend neighbour six times—"three in Civility and three on Business"; lent him a grate, "which he has to this day"; restored his bees, when they swarmed in the schoolhouse garden; and upon the minister returning his

[1] *Cf.* "The Last Tulzie," *Glengarry's Way and Other Studies*, pp. 172–175.

[2] *Mr. Kirkwood's Plea*, pp. 67–70.

call, "gave most heartily to him a drink of the best Liquor he had." What acknowledgment got he from the divine, he asks, for such acts of kindness and discretion? "He never saw one Cup of his drink nor a Crumb of his Bread in all the said six Visits." Except on these occasions, "and with difficulty then," Mr. Jaque never opened his mouth to his neighbour until he "struck him through the very heart with a Thunderbolt from Heaven, or rather Hell, to wit, that horrid Calumny about the Woman in Blackadder."

The affair of the Controverted Vault arose in this wise. The Earls of Roxburgh, as proprietors of Kelso Abbey, had permitted their vassals to occupy for divers purposes certain old vaults beneath the church. Strangely enough, until the coming of those lights of learning and divinity, Messrs. Kirkwood and Jaque, the schoolmasters and ministers of Kelso, in default of more suitable accommodation, had "liv'd in these very pitiful holes." In 1694 a manse was built, "tho' then none knew the Man that should inhabit it." For the dominie, too, "a very good House" was erected. The vault in question he maintained to have been occupied as a brewhouse by former schoolmasters; it was altogether ruinous, and he spent 300 merks in having it repaired. Mr. Jaque, however, casting covetous eyes upon this Naboth's vineyard, asserted that "the said Vault was in use to be possess'd by the ministers at Kelso," and failing to persuade Mr. Kirkwood to give it up, he raised an action against his neighbour in the Sheriff Court at Jedburgh, "where the business about the Vault was debated *Pro* and *Con* pretty warmly on both sides." The learned defender then "used means to carry the Cause before the Lords of Session, who alone are the Proper Judges in matters of this kind"; but he was less successful there than in his former famous plea with the Twenty-seven Gods, and their Lordships, after considerable debate, remitted it back to the Sheriff, who allowed a proof. The reverend pursuer cited a "vast number" of witnesses in support of his case.

A good part went from Kelso to Jedburgh (6 or 7 miles)[1] in a mighty great Storm; poor people wading, some on foot, some on Horses, through great wreathes of Snow. But the sport was that Mr. Jaque and his Lawyers, either through Negligence or Ignorance, had omitted to perform a necessary point of Law; so that all these Witnesses return'd home as they went away, without deponing. Great difficulty had the old poor people to wrestle home, two upon a Horse, except where they had the Cadaver to drag out from amongst the Snow; some of them cursing Mr. Jaque and wishing he were buried in the said Vault.[2]

Later, in more favourable circumstances, the Sheriff heard proof, after which "there was a kind of Cessation of Arms for several weeks, the Sheriff delaying for reasons known to himself to give out Sentence, both Parties, you may be sure, gaping for it." At length judgment was pronounced in the pursuer's favour; the defender was "ordained to remove from the Vault" and to pay £15 Scots of expenses. Mr. Jaque "was not slow, as soon as he got his Decreet extracted, to give Mr. K. a Charge instantly to remove. He gave him also a Charge of Horning for payment of the abovementioned Sum." But the dominie, as my readers know, was not an easy man to beat; he invoked the aid of Lord and Lady Roxburgh, who "immediately take the Plea into their own hands, and suspend the Decreet of removing and the Sentence." And so matters stood at the time of his writing (25th May 1697), and we do not know the issue of that momentous litigation. Let us hope, however, that our author won, and that he celebrated his victory in the genial brewage of the Controverted Vault.

Reluctantly leaving the pleasant humours of this pastoral interlude, the roll of the drums ecclesiastic salutes our ear as we return to the dust and heat of the theological arena. 24th September 1695 is, says Mr. Kirkwood, "a day that justly deserves to be kept in perpetual Remembrance on account of the many strange things done and acted therein by the most wonderful and monstrous kind of Judicature that ever was on the face of the Earth since

[1] 10¾ miles, according to the Gazetteer. [2] *Mr. Kirkwood's Plea*, p. 69.

the Creation of the World." Of the seven members of Committee, four, namely, Mr. Jaque and three other ministers, who sat as judges, were also witnesses for the libel. "We leave to any indifferent Person to judge what Equity and Justice could be expected from a Judicature made up of such corrupted and byassed Judges." First the dommie delivered a "Preliminary Discourse"; next the Rev. Mr. Thomson, "Judge, Witness and Clerk all at once," read out each article of the libel, with Mr. Kirkwood's answers relative thereto; then Michael Fisher, the usurping Session Clerk, read "Remarks on the said Defences."

> Lastly, follow'd very prettily that which Musicians call the Burden of the Song, a thing not unlike to "Lil-li Bur-lero, Bullen-a-la, Lero, lero, lero; Lil-li Bur-lero, Bullen-a-la." Or if you please, call it a Tighee, or very hearty Gaff of Laughter; especially when the said Michael came to read and explain some Latin or Latin-like words, such as Nullifidianism. Then indeed those who sung the "Burden" prevented their time and interrupted him in his Office; and there being a vast number of them, did quite sink and overpower his Voice. In a word, 'twas a perfect Comedy, or rather a Stage Play. Some were pleased to say that they never saw better Sport in their life. And in truth it would seem these "Remarks" thought shame of that day's appearance, for they never ventur'd to set out their Heads to the view of the World thereafter, tho' Mr. K. has frequently by way of Instrument requir'd a sight of them. . . . You may be sure if they had come to Mr. K.'s hands, you should have got a sight of them, with Minellius's Notes at their Tail.[1]

Manifestly we have lost something good. Mr. Kirkwood, being ordered to answer these "Remarks" in writing by eight o'clock next morning, refused to do so in view of the shortness of the time allowed him; he therefore appealed to the Synod against the order, and withdrew. The Committee then proceeded to examine witnesses in his absence. No order or method was observed; the witnesses deponed on hearsay—"yea, double hearsay: as, 'Paul said that John said he heard Peter say'"; in short, anything that anyone was "pleas'd to tell concerning Mr. K." was accepted as evidence, with the notable exception that "things

[1] *Mr. Kirkwood's Plea*, pp. 73–74.

depon'd which made for Mr. K. were not recorded." That this is no exaggeration appears from the evidence of the Rev. Mr. Black, "Governour [tutor] to the Laird of Hilton and his Brethren," who upon the charge of treason deponed: "that being one day with a Gentleman in Mr. K.'s House, and his Daughter playing on the Virginals, heard him bid her play 'When the King comes home in peace again'"; and that he "supposed he heard one of his pupils say he heard" another say he (Kirkwood) drank King James's health!—evidence which the dominie, not unjustly, describes as weak. Many and ludicrous are the other samples he gives of this travesty of justice, for which I have no space. "The Business about the Keegrels,"[1] though sufficiently curious, is rather too much so for modern taste, and "The Mystery of the Ass,"[2] amusing enough in its way as an instance of Mr. Jaque's "charity," is scarcely relevant; "The Descent into Hell,"[3] however, is quite in order. A boy of sixteen was called, who acknowledged that he had "a Pique or Prejudice at Mr. K." on account of receiving from him a thrashing and being expelled from the school. "Have you Malice at him?" asked the Moderator; "Could you wish to see his Soul in Hell?" "I will not say, Sir, I wish his Soul in Hell," was the discreet reply. Thus "purged of malice and partial counsel," the boy's testimony was admitted.

At Kelso on 17th October 1695 the reverend Synod of Merse and Teviotdale pronounced in these terms the dominie's doom:—

> The Synod having receiv'd the Report of the Committee anent Mr. J. Kirkwood, School-Master of Kelso, his Process, together with the following Overture, viz. That the Committee taking to their serious Consideration the Complex Affair of Mr. Kirkwood's Process, judgeth him unfit to be either Precentor or Session-Clerk; and allows Mr. W. Jaque, Minister of Kelso, with the Session of Kelso, to provide a fit person for these employments, ay and while [until] the School of Kelso be provided with a Qualified Doctor for these Offices . . . Which Over-

[1] *Mr. Kirkwood's Plea*, pp. 78–80.
[2] *Ibid.*, pp. 85–86.
[3] *Ibid.*, pp. 83–84.

ture being Read and Maturely considered, the Synod by Vote approved the same.[1]

Also the Synod referred to a new committee for further consideration "the foresaid Affair of Mr. K." This judgment that gentleman calls "Coupar justice: first to hang a Man, and then to appoint an Assize to make Enquiry whether or not he deserves so severe a Punishment." He therefore appealed against the sentence to the next General Assembly.

As the proceedings of that venerable body in relation to the plea occupied from 17th December 1695 to 7th January 1696, even our author admits "it were tedious to set down every particular that past before these Judicatures." He professes only to give "a brief touch of some Material Points." The dominie's idea of brevity, like Mrs. Todgers's notion of a wooden leg, is nebulous, seeing that he devotes to the matter the whole Fourth Part of his *Plea*—some fifty pages of a type even more villainous than that of the rest of his pamphlet. An additional libel, containing seventeen new and original charges, was now lodged by Mr. Jaque and the elders. "Tho' we could easily," observes Mr. Kirkwood, "cut off the heads of all these 17 Giant-like Monsters by saying they are meer Chimeras, that is, abominable Fictions, gross Lyes and Calumnies, yet to satisfy those who are of a lesser Capacity or are not acquainted with the true Circumstances of things, we shall give you a short Hint at each of them." These hints I do not propose to take, the charges being but a réchauffé of the former libel, of which already we have had enough.

Mr. K. was exceedingly perplex'd how to carry [on] under his present Circumstances when he reflected on the whole Process, and considered the way and manner of its procedure, with the many strange and various Accidents which occasionally fell out almost at every Meeting. Hence things were so far from being like to be brought to a conclusion that they daily multiplied and encreased exceedingly. It was with him as with

[1] *Mr. Kirkwood's Plea*, p. 93.

Hercules when he fought with the Serpent Hydra, which they say had 50 Heads and when one was cut off, two started up in its room. At first he was charg'd only with 2 or 3 Crimes; next 15; and now with 17; so that he saw no end, but still new Forces levied against him and always the last more numerous than the former.[1]

He complains that he was never allowed "an open Fight," being invariably attacked by surprise, that he was never admitted to debate with his accusers, and that the personnel of his judges was continually changed. "Committees and Sub-committees sat days and nights, yet never once call'd for him, nor yet the Synod, till he was to hear his Sentence read." The matter being referred back to the Provincial Synod of Merse and Teviotdale, after twelve months' further consideration and enquiry, on 22nd October 1696 they confirmed their former sentence, depriving the dominie of all his offices. The grounds of their decision were his lack of testimonials, his lax and unsound principles, his behaviour to his scholars, "and that he hath officiated as Session-Clerk to the Episcopal Meeting in Kelso, to the obstructing the work of the Gospel in that place." The Culross and Blackadder charges were discreetly dropped. The passage last quoted lets the cat out of the Presbyterian bag: the dominie's real offence consisted in his being an Episcopalian. With reference to this fresh allegation Mr. Kirkwood emphatically states, "This is a base Calumny, for he never once did it, no more to it than to the Presbyterian Congregation." And he leaves as a problem to be determined by future ages whether Mr. Jaque or himself be more unfit for their respective offices, "especially at Kelso."

There remain only two little Battles, but both without the Effusion of much Blood. In the one you have a brief Account of some things that pass'd before the G. A and its Committees. In the other, what the Lords of His Majesty's most Honourable Privy Council did in this Affair. But before we enter upon either of these two Fights we must give you a Touch of some Skirmishes which preceded them.[2]

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[1] *Mr. Kirkwood's Plea*, p. 111.

[2] *Ibid.*, p. 134.

The indomitable dominie continuing, despite the sentence of the Synod, to conduct his school as usual, Mr. Jaque "obtruded and imposed on the Place another Schoolmaster, one Mr. James Dowglas." This person "unjustly invaded the casual Profits which accress to those of the publick School from Bridegrooms who belong to other Parishes and are married in Kelso, and who use to give to the Scholars a Foot-ball or money to buy one." Mr. Kirkwood's boys, being, as we know, thorough sportsmen, naturally resented this infringement of their rights, and their relations with the disciples of Mr. Douglas were strained.

Upon such occasion there happen'd (Decemb. '96) a Scuffle by throwing Snow-balls one at another. A young Gentleman, Jo. Waughop, Son to Captain Waughop the Laird of Niddrie's Brother, having a Snow-ball cast at him by one of the opposite School, intended to retort that injury and to pay him home in his own Coin, but was hinder'd by Ro. Dickson, the Boy's Father, a Meal-maker there, who laid violent Hands on him and throwing him down in the dirty Street, did most disdainfully set his Foot on him; which did so insense the Youth, being of a high Spirit and Courage, that he could not bridle his Indignation, being thus affronted by the Fellow. And therefore as soon as he got to his Feet, he drew his Knife and threatened to thrust it through the meal-maker's Cheeks. Mr. Dowglas, who was a Spectator and Witness to all, went immediately to the young Gentleman's Governour and gave him a most partial and false Account of what was done, averring that his Pupil pursu'd the other Boy with a drawn knife, whereas he concealed the Injury he had received from the Boy's Father, who alone was threaten'd (and but threaten'd) with the knife, upon the provocation of such outragious usage. And upon this Information, so lame and false as it was, the young Gentleman was whipt by his Governour.[1]

Douglas, accompanied by five elders and a Notary Public, waited on the dominie to demand that he should punish Master Wauchope, which he refused to do until he was more fully informed of the circumstances, when he would deal with the boy as he thought fit. Next Sunday Mr. Jaque in his sermon warned parents against schoolmasters who neglected their duty. "We had," said he, "the other day in this place a very sad instance of this; a Boy guilty

[1] *Mr. Kirkwood's Plea*, p. 135.

of such a high Crime as might have brought both him and others to a violent Death, and to this hour is not corrected for it." "Sir," said the dominie from his pew, "the Boy was corrected for that Fault." "You are the Person I mean," angrily retorted the divine; "you are a Plague in this Place." "Either you or I, Sir," replied Mr. Kirkwood, as he rose and left the church. We shall hear more of the matter presently.

On 4th January 1697 both parties went to Edinburgh "to debate the business [of the plea] before the G. A.," where the dominie lodged his petition giving the reasons of appeal to the Committee of Bills, Mr. Jaque lodged "Answers to the Reasons," and the whole affair was to be begun *de novo*. "Many were for falling immediately upon it, but some of the Brethren held up a great Bag or Armfull of Papers, telling that many days would not discuss it." So the business was remitted to the Committee of Bills "for further ripening, at which he was very sorry, knowing certainly that it would never come to be debated before the G. A., it being to rise within 2 or 3 days." Finally the Committee reported that they found reasons which, if made good, warranted an appeal; and the matter was adjourned till the first Tuesday of March. Appearing on that date before the Commission Mr. Kirkwood begged them to "dispatch him" forthwith, but this they refused to do. At last, after innumerable delays, which kept the unhappy dominie "walking constantly to and fro before their door, being always call'd in when they sat down, and ordered to attend, and when they adjourn'd he was again appointed not to fail punctually to wait at their next meeting, and this both before and after Noon"—which, as the Princesses Nekaya and Kalyba complained,

> is an awkward time because
> It cuts into our lunch

—the decision was reached that Mr. Kirkwood had appealed without just grounds, and his appeal was disallowed accordingly.

Meanwhile Mr. Jaque had "raised Council Letters" against the dominie for "making a great Noise in time of Divine Service," *i.e.* brawling in church, contrary to the Act 11 James VI., cap. 27. This was the business about Master Wauchope. Informations or written pleadings having been lodged, the parties with their advocates on 18th March 1697 appeared before the Lords of the Privy Council. Mr. Kirkwood's ancient adversary "Wily Jamie," Sir James Stewart of Goodtrees, who was now Lord Advocate, appeared for the complainer; Sir Patrick Home and Sir David Thoirs represented the respondent.[1] My Lords "storm'd exceedingly" when "Wily Jamie" read to them the sentence of the Synod declaring the dominie unfit to be a public schoolmaster. "What!" said their Lordships, "He is most fit to teach any School in Britain." Lord Philiphaugh "signified that Mr. Jaque was far more guilty than Mr. K." The Earl of Annandale observed that there were few in Scotland who did not know what "Flames of Contention" Mr. Jaque had raised in Ireland; how at Biggar "he set that little place almost on Fire"; and that since his entry to Kelso "he had put them all by the Ears." The Earl of Leven remarked "that a Man of so turbulent a Spirit as Mr. Jaque ought not to be suffered to live in such a place as Kelso." Finally their Lordships declared both Mr. Jaque's libel and the sentence of the Synod null and void. The parties were ordered to appear next day before a commission of four Lords to be rebuked in private. Mr. Kirkwood duly complied, "got his Rebuke, and promised never again to speak in time of Divine Service, even tho' Mr. Jaque should call him the Devil himself or worse, if worse could be imagined." That gentleman, however, was unrepentant He "slipt Home" unrebuked, and not content with disobeying the Council's order, so soon as he got back "did openly from the Pulpit on the Lord's Day most maliciously Calumniate and Revile

[1] The same counsel were engaged in the famous trial of Captain Green and his crew for piracy and murder in 1705.

not only Mr. K. but also the Lords of His Majesty's most Honourable Privy Council and the noble Earl of Roxburgh ; and that by telling not only to the People what evil they had done in this present Affair, but complaining of it to God himself in the publick Prayers of the Church."

Lord Roxburgh and the other heritors having summoned before the Privy Council the rival pedagogue set up by Mr. Jaque, Douglas was ordered "to desist to teach any more in Kelso." This fellow, a true coin from the Jaquean mint, continued defiant in his rôle of Squeers, "for which his singularly insolent Carriage" their Lordships on 13th April 1697 passed an Act of Council, "inhibiting him to keep any School at Kelso without the consent of the said Earl and the other remanent Heritors of the Parish." On the following Sabbath Mr. Jaque took occasion officially to call the attention of the Almighty to "the heavy judgments hanging over this Place on account of withdrawing the means of a Religious Education of the Youth here." But the dominie, secure in the privilege of those who win, could afford to laugh at the ghostly gunman, whose fire the Privy Council had made ineffectual.

And so we part company with Mr. Kirkwood, wishing him many peaceable and happy years. He had fought a good fight, "which Fight began 16 May 1692 and continued to the 18 of March 1697." One who had wrestled so long with Gods and prophets was surely entitled even in this life to enter into his quiet rest, although from what we know of his temperament it may be doubted whether in such a case the dominie would be entirely content. With nothing whatever to grumble at he must often, like King Gama, have sighed for the provocative days of yore. "The drums and tramplings of three conquests"—those of the Provost, the Presbytery, and the Synod—reverberant in his dreams, would be apt to make the tranquil present seem tame and savourless. Fortunately the Brewhouse Plea had yet to be decided ; and still, entrenched behind the mutual hedge, there was the tonic personality of Mr. Jaque.

LAUREL WATER;

OR THE WICKED BROTHER

LAUREL WATER;

Or The Wicked Brother

If imputation and strong circumstances,
Which lead directly to the door of truth,
Will give you satisfaction, you may have it.
—*Othello.*

EARLY one morning in the month of September 1780 the boys of Rugby School took unto themselves a holiday. The occasion was unique, in the just sense of an ill-used adjective; like the raffling of Mr. Bunthorne, such an opportunity could not be expected to recur. A cherished pastime of the scholars had been their custom of fishing in the Avon, where that easy-going stream meanders leisurely among the willows in the neighbourhood of Lawford Hall, of old the seat of the ancient family of Boughton, some three miles from Rugby town. For many years the boys had followed their sport without let or hindrance from the proprietors, but no sooner did Captain Donellan espouse the co-heiress and become virtually lord of the manor, than he forbade the practice. Thus began between the incomplete anglers and the wielder of the new broom a feud which aroused in schoolboy bosoms strong resentment against the disturber of their usage, and though his prohibitory measures proved effective, the boys did not despair of getting even with him in the end. When therefore it became known in Rugby that the Captain had been arrested for the murder of his brother-in-law, Sir Theodosius Boughton, the youthful philosophers perceived that after all there was justice in heaven. So, on the day I speak of, close and classroom were deserted while the boys trooped out towards Long Lawford to witness the discomfiture of their common foe. Presently down the Lawford road came the unhappy Captain, walking between two constables, on his way to Warwick gaol, the assizes and the scaffold; and the boys, having admired the workings of

a discriminating providence, resumed, with Doctor Blimber's young gentlemen, their interrupted studies.(*a*)

Lawford Hall was a place of legend long before the day when John Donellan darkened its doors. One-handed Boughton, an ancestor of the house, who lost an arm in Queen Elizabeth's time, not content with destroying by his persistent appearances the peace of his own descendants and rendering their best bedroom unsleepable, to the annoyance of the lieges drove about the neighbourhood after nightfall in a coach and six. Major Weir of Edinburgh in his nocturnal excursions used such a conveyance, equivalent to the Rolls-Royce of our day. These old ghosts enjoyed with Todgers's the ability to "do it" when they liked. The eighteenth century was an irreverent age; the Boughton for the time, determined to rid himself of the family curse, invoked the spiritual power, and by the combined exorcisms of twelve clergymen with lighted candles the obtrusive ghost was conjured into a phial and cast into a marle pit, hard by the Hall. Thenceforth the scarlet coat and cracking whip of One-handed Boughton were seen and heard no more. But the place of his suppression was respected, and the father of our Sir Theodosius would allow no fishing in its waters for fear of disturbing his relative's repose. In 1810, however, when the bottle was recovered from the pond, the ancestral spirit was found to have evaporated; but its receptacle, piously preserved by later representatives of the family, has figured with distinction at divers local exhibitions.(*b*) The contents of another phial, as we shall see, were destined to have a more calamitous effect upon the fortunes of the house.

John Donellan, the illegitimate son of a lieutenant-colonel, was born in Ireland on 6th November 1737.(*c*) Educated at Woolwich, he was on 4th March 1753 appointed to a cadetship in the Royal Artillery. He went to India,

(*a*) Bloxam's *Rugby: The School and Neighbourhood*, 1889, p. 185.

(*b*) *Ibid.*, pp. 186-189.

(*c*) The following particulars are taken from *The Life of John Donellan, Esquire*, 1781, and the accounts of his career furnished by the *Westminster* and the *Political Magazines* for April 1781.

Captain Donellan.

(From a contemporary print.)

and at Madras exchanged into the 39th Foot. When the regiment was ordered home certain officers were allowed to enter the East India Company's service. Donellan, availing himself of this permission, embarked for Bengal, and was there gazetted captain on 15th December 1757. A year later he took part in the expedition to Golconda under Colonel Forde, his first and last campaign. In an engagement at Chumbole he was wounded in the leg, and had to go into hospital. On recovering he rejoined his regiment, and was present at the siege and capture of Mazulipatam, the capital of Golconda, surrendered by the French under the Marquis de Conflans on 7th April 1759. In the account afterwards given by Donellan of his personal prowess on this occasion the narrator has the misfortune to agree neither with the evidence of others engaged in the affair nor with the authentic histories of the campaign. His biographer unkindly describes his reminiscences as the mere gasconade of a Bobadil. On the day of the capitulation Captain Donellan and other three officers were charged with the duty of apportioning the spoils of victory. By the terms of the surrender the "black" merchants were entitled to recover such of their property as to which they could establish a title. Donellan and his colleagues formed a fraudulent scheme whereby the merchants had to pay, appropriately, blackmail before they could get possession of their own goods. As the amount of treasure was immense the profits to be gained seemed proportionately great. But Colonel Forde, learning of this friendly move, ordered the arrest of the promoters, and on 28th April 1759 the four "white" dealers were tried by court-martial, found guilty, and dismissed the service. With this sentence, says his biographer, the Captain's military career expired. It was anything but "a clean-strae death."

Donellan returned to England somewhat under a cloud, but wearing upon his finger a diamond—"we fear the same mentioned to be missing in the deposition of Maurood Sarkise"—of such brilliancy and price as to earn for the

wearer the sobriquet of "Diamond" or "Ring Donellan." When obliged by the exigency of his affairs to realise this gem, he had a counterfeit stone made, which equally maintained his credit as a man about town. In the universal prodigality of the day he speedily obtained a footing, and we find him figuring in 1770 as a Blue-coat boy at a masquerade in the gilded saloons of Madame Cornelys.(*a*) "The circle of his friends had lately been much enlarged by his introduction to the gay and polite world. It now became his desire to emulate those who stood highest as the arbiters of fashion. Dress and gaming engrossed his whole attention, and he soon had an opportunity of placing himself in a very distinguished situation—that of Director of the Entertainments at the Pantheon. In this station, to execute the duties of which no abilities are necessary, and where the less a person is incumbered with learning or genius the better chance he has of acquiring the applause of the world, Captain Donellan presided for some years."(*b*) The Pantheon in Oxford Street,(*c*) decorated in the Italian style and splendid as a Roman palace, when opened on 27th January 1772 became the most popular temple of worship in Vanity Fair. With its range of ballrooms, spacious colonnade and domed rotunda, painted with frescoes and blazing with innumerable lamps, rivalling in splendour the fabled pleasure-house of Aladdin, it must agreeably have recalled to the Director of Entertainments his experience of the gorgeous East. The office, *pace* his biographer, was no sinecure, for the morals of the frequenters were but too much in harmony with this Oriental setting. "Owing to the number of ladies of easy virtue who had flocked to the first ball, an advertisement was published in the newspapers announcing that 'women of the town' would be refused admittance in the future, and Captain Donellan, the master

(*a*) *Gazetteer*, May 16, 1770.

(*b*) *Life*, p. 13; *Gazetteer*, September 14, 1771.

(*c*) Now the headquarters of Messrs W. & A. Gilbey, the ubiquitous wine merchants.

of ceremonies, was directed to see that this rule was enforced."(*a*) When that honourable swashbuckler, Mr. George Hanger, in defiance of this regulation, introduced at the next ball his fair friend the "angelic" Mrs. Baddeley, a famous Paphian, the M.C., knowing his man, was too prudent to interfere. What efforts he did make to purify the social atmosphere of the rooms involved him in more than one challenge from resentful gallants.(*b*) It is probable, however, that his attempted reforms were but half-hearted, for we read: "His universal intercourse with polite prostitutes, though sufficiently known, was too often the subject of his egotism and the recommendation of his consequence."(*c*) There was also his notorious connection with a married woman of station, whose house, servants and carriages were at his command as the reward of his attendance and assiduities. "An extravagant vanity was the basis of his character. His dress was generally gaudy without elegance, and his ideas and conversation contracted. Under the absolute control of irregular propensities his fortune in a short time became greatly injured. However, he received a sum which enabled him to purchase a share or two in the Pantheon, but he did not long retain them; embarrassments of a pecuniary nature surrounded him, and he was obliged to sell his shares under great disadvantages. Play and gallantry, the ultimate subterfuges of dissipation, were his general resources."(*d*) These agreeable pursuits ultimately landed their follower in a spunging house in Shire Lane, where, such was his reputation, his creditor would not "trust himself in the same room with him without witnesses." His enforced segregation from society engendered serious thoughts. The Captain, reviewing his position, perceived it to be both precarious and unstable, and prudently determined to turn over a new leaf. A wealthy

(*a*) Bleackley's *Story of a Beautiful Duchess*, 1907, pp. 200-201; *Gazetteer*, January 31, 1772.

(*b*) *Whitehall Evening Post*, February 1-4, 1772.

(*c*) *Political Magazine*, 1781, p. 276.

(*d*) *Ibid.*

marriage was plainly the best way out of his difficulties, and to compass that end on his return to the polite world all his energies were bent.

While Donellan was experiencing these ups and downs of fortune there was living quietly in Warwickshire a certain Dame Anna Maria Boughton, relict of Sir Edward Boughton, sixth baronet of Little Lawford. Since his sudden death by apoplexy six years before, the widow had sent her only son, Sir Theodosius, then in his teens, to Eton, and with her elder child, a daughter, continued to occupy Lawford Hall. The Boughtons were one of the oldest families in the county, the baronetcy dated from 1641, and their social and financial circumstances were alike enviable. Sometime in the year 1777 Lady Boughton and her daughter came to town for the season. In an evil hour they visited the Pantheon, where they attracted the regard of the watchful Master of Ceremonies. To provincial ladies bewildered by the whirl of the town his services proved most helpful. Nothing could exceed the Captain's gallantry and attentions; mother and daughter were equally charmed with him and he at once established himself in their good graces. Theodosia Anna Maria Ramsay Beauchamp Boughton was young, pretty, well bred, inexperienced, and wealthy: here was a golden opportunity, and our adventurer was quick to seize it. Aware that the girl's friends would never allow her to marry a cashiered officer and needy profligate, Donellan inveigled her into an elopement and a clandestine marriage. The resentment of the family was at first implacable, and the delinquents were abandoned to their own resources. "The rage which actuated the lady's relations continued for some time unabated, and seemed to prognosticate little advantage to Captain Donellan from the connection which he had taken such great pains to accomplish." (*a*) But the bridegroom's knowledge of life being, like Mr. Weller's acquaintance with London, extensive and peculiar, his conduct in these trying circumstances was unexceptionable. He gave

(*a*) *Life*, p. 15.

up play and pleasure, devoted himself to his young wife, and, supported by her private fortune, awaited with exemplary patience the turn of the tide.

In July 1777, a month after their marriage, the Captain and his bride visited his brother-in-law at Eton. Sir Theodosius Edward Allesley Boughton was a palmary example of the spoilt child. A baronet at twelve, self-willed and self-indulgent, lacking a father's authority to counteract the influence of a foolish mother, the unhappy boy had come to grief. They found him "at a Mrs. Robert's there, in a deep salivation for the venereal disease, under the care of a Mr. Pearson, surgeon of that place." (*a*) He was then barely seventeen. The Donellans were living at Bath, and Lady Boughton afterwards wrote to her daughter that she had "fetched" her son from Eton and placed him under the care of Mr. Clare, an apothecary at Rugby. Later she wrote again that blotches had appeared upon his face, that he had lost his fine complexion, and that he was then taking things for his complaint. (*b*) It is evident that the boy's health was much less satisfactory than the Crown at the trial sought to maintain. Until his coming of age on 3rd August 1781 Sir Theodosius was under the joint guardianship of his mother and Sir William Wheeler, a Warwickshire baronet and friend of his father. Sir William lived at Leamington; his supervision seems to have been nominal, and Lady Boughton had the sole charge.

Now the commendable behaviour of her son-in-law began to bear such good fruit that her ladyship became reconciled to the match and invited the peccant couple on a visit to Lawford. Thus in June 1778 Donellan entered into the promised land. It is needless to say, in the case of so gallant an officer, that once admitted after a twelvemonth in the wilderness, there could be no question of retreat. By this time Lady Boughton had sent Sir Theodosius to a private tutor, named Jones, at Northampton, where he continued to receive medical treatment from a Mr. Kerr; and

(*a*) *Case of John Donnellan, Esquire*, 1781, p. 6. (*b*) *Ibid.*

when in the end of September the young baronet came home he found the new relative in the full exercise of his old-time rôle of director. The Captain's ascendency and influence were complete. "No arrangement was made without his advice, nor alteration in the domestic economy admitted but with his participation. He directed every business according to his own ideas, and found obedience paid to his orders as though he had been the owner of the mansion. In short, nothing could exceed the authority which he assumed but the deference and submission with which his commands were received." (*a*) How Sir Theodosius liked this state of matters is not recorded, but there are indications that as an obstinate and headstrong youth he resisted his brother-in-law's dominion. At all events, it is in evidence that at the end of August 1780 he proposed to make a visit to a friend, Mr. Fonnereau, with whom he intended to stay an indefinite time. He is said to have been paying court to that gentleman's sister, but looking to the nature of his ailment that seems barely credible. For two months he had been attended by Mr. Powell, a Rugby apothecary, on a renewal of his disorder—"a fresh complaint," for which he was still under treatment. Otherwise, according to Powell, he was in good health and spirits.(*b*)

Donellan had for some time been throwing out hints that all was not well with the baronet—which was true enough—and that his reign was like to be a short one. He dissuaded Lady Boughton from leaving the Hall by his expressed fear that "something might happen before she came back," as Sir Theodosius was in a very bad state of health. On

(*a*) *Life*, p. 16.

(*b*) There are two excellent and authentic reports of the trial on which the following account of the case is based: (1) "The Trial of John Donellan, Esq. . . . Taken in Short-hand by Joseph Gurney. London: Sold by George Kearsley, etc., MDCCLXXXI. Price 2s. 6d. Folio, pp. 58"; and (2) "The Proceedings at Large on the Trial of John Donellan, Esq. . . . Taken in Short-hand, by Permission of the Judge, by W. Blanchard. London: Printed for J. Almon, etc. [1781]. Price Two Shillings. Octavo, pp. 152." These I have compared, and find Gurney's to be the more complete and accurate. I give the references to both.

Sir Theodosius Edward Allesley Boughton, Bart.

(From a contemporary print.)

Saturday, 26th August, four days before the death, he gave the Rev. Piers Newsam of Great Harborough a lurid account of the lad's condition physical and mental: "his blood was a mass of mercury and corruption," and his "intellects" were much affected. Whereupon the rector remarked that if such were the case, the baronet's life was not worth two years' purchase; to which Donellan emphatically replied, "Not one." Mr. Newsam, who had been absent from his living, had no personal knowledge of the facts, but he thought Sir Theodosius looking very well, though not so florid as formerly.

On Tuesday, the 29th, Mr. Powell made up a draught composed of rhubarb and jalap, 15 grains each; spirits of lavender, 20 drops; nutmeg water and syrup of saffron, 2 drachms each; and 1½ ounces of water, in a 2-ounce phial, which he sent to the patient by Samuel Frost, the baronet's man-servant, who at six o'clock that evening delivered it to his master, who in turn took it upstairs to his own room. Shortly thereafter Sir Theodosius, according to his wont, "went a-fishing," a sport which he followed, curiously enough, on horseback. Samuel Frost accompanied him and testified that his master neither dismounted nor got his feet wet during the operations—presumably they used a net; they went home at nine o'clock, and Donellan was not present at the fishing. Meanwhile Lady Boughton and her daughter walked for an hour in the garden, where at seven o'clock they were joined by the Captain, whom her Ladyship had not seen since dinner.(*a*) He said "that Sir Theodosius should have his physic"; that he had been to see them fishing and had tried to persuade him to come in, lest he should take cold. When the lad returned he had his supper and went to bed. He seemed as well as usual, told his mother he wanted a net repaired on the morrow against the expected visit of his friend Fonnereau, with whom he was to go away, and asked her to come and give him his medicine in the morning. Sir Theodosius occupied two chambers: in

(*a*) The dinner-hour was about three o'clock.

the outer he slept with unlocked door; that of the inner was usually locked. It had been his habit to keep his medicines in the locked room, but having once forgotten to take his dose, Donellan said, "Why don't you set it in the outer room, then you will not so soon forget it?" after which the medicines were kept on the mantelshelf of the outer room, accessible to all and sundry.

At six o'clock next morning, Wednesday, 30th August, Samuel Frost awakened his master, asking "for the straps to buckle on a net that he was going to take to Dunchurch." Sir Theodosius rose and got him the straps from the inner room; he seemed in his usual health. At seven Lady Boughton came to give him his medicine. She read the label—"Purging draught for Sir T. Boughton"—and at his request shook the bottle, poured the contents into a cup or bason, and gave it to him. "He observed it smelt and tasted very nauseous," whereupon her Ladyship herself smelt it: "it smelt very strongly like bitter almonds." "Don't mind the taste," said she; and he drank off the whole draught. In less than two minutes the boy became violently ill; "he looked as if he was going into convulsions, and struggled very much; made a prodigious rattling in his throat and stomach, and a guggling, and seemed to me to make very great efforts to keep it down." He never spoke after he had taken the medicine. These symptoms lasted ten minutes; he then seemed quieter and inclined to doze. Lady Boughton, thinking that they were due to his efforts to retain the draught, left the room to finish dressing—she was engaged to ride out that morning with Donellan—and returning five minutes later found her son in the article of death, "his eyes fixed upwards, his teeth clenched, and the froth running out at each corner of his mouth." (*a*) The mother, horrified, ran downstairs and sent for the apothecary and for her son-in-law. Now Donellan, for reasons best known to himself, had arranged the previous night that Lady Boughton should ride with him betimes next morning

(*a*) Evidence of Lady Boughton, Gurney, p. 17; Blanchard, p. 39.

to Newnham Wells, three-quarters of a mile from Lawford Hall, to drink the waters there. Had she done so before giving her son his physic, Sir Theodosius would have taken it alone, and on their return all would have been comfortably over without attention being directed to the draught. As her Ladyship was not ready, the Captain rode to the Wells by himself. Returning in about an hour he was met at the gates by the messenger, who took his horse to ride for the doctor. "What do you want?" said Donellan on entering the death chamber. "Want!" cried the mother; "here is a terrible affair! I have been giving my son something that was wrong, instead of what the apothecary should have sent. It is an unaccountable thing in the doctor to have sent such a medicine, for if it had been taken by a dog it would have killed him." Donellan asked for the bottle; she pointed it out to him on the mantelpiece. He took it up, poured some water into it, shook it, and emptied the contents "into the dirty water in the wash-hand bason." "Good God!" exclaimed her Ladyship, "what are you about? you should not have meddled with the bottle." He then lifted another bottle, repeated the process, and putting his finger to it, said "he did it to taste it." He had not tasted the first bottle. Two of the maids came up, and the Captain ordered Sarah Blundell (*a*) to clear away the bottles and the bason. Lady Boughton "bid her let them alone"; but so soon as her Ladyship's back was turned he again told Sarah to remove them, which she did. While the room was being set in order Donellan said to Sarah, "Take his stockings; they have been wet, he has catched cold to be sure, and that might have occasioned his death." Whereupon Lady Boughton examined the stockings, which were dry and bore no mark of wetting.

After the room had been cleared Donellan told Catherine Amos, the other maid, that it was very silly of Sir Theodosius to have stayed out so late fishing, in view of the

(*a*) This girl died before the trial, but in her deposition at the inquest she corroborates her mistress.—Depositions, etc., *post*.

sort of physic he was taking, and that his death was due to a broken blood-vessel. About eight o'clock Donellan ordered the gardener, Francis Amos, to get a couple of pigeons for his master: "we must have them ready against the doctor comes," said he; "poor fellow! he lies in sad agonies now with this damned nasty distemper, the pox; it will be the death of him." The birds were not for the patient's consumption—he was past that—but to be applied to his feet, according to old-time medical practice.(*a*) Later in the day he remarked to Francis: "Now, gardener, you shall live at your ease and work at your ease; it shall not be so as it was in Sir Theodosius's time. I have wanted before to be master; I have got master now, and shall be master." When Powell, the Rugby apothecary, came about nine o'clock, Donellan met him in the courtyard and took him up to the bedroom. He told the doctor that his brother-in-law had caught a chill and died in convulsions. He made no mention of the fatal draught, but Powell learned later from Lady Boughton that the seizure occurred immediately upon swallowing the medicine. Donellan told him that Sir Theodosius had been dead for an hour; he saw no distortion of the body and asked no questions.

That day Donellan intimated to Sir William Wheeler the death of his ward. "I am very sorry," he wrote, "to be the communicator of Sir Theodosius's death to you, which happened this morning; he has been for some time past under the care of Mr. Powell of Rugby, for a similar complaint to that which he had at Eton. Lady Boughton and my wife are inconsolable." (*b*) Not a word as to the draught and its consequences, the suggestion being that the boy died of his "complaint." On 2nd September Sir William wrote to express his sympathy; on the 4th, having seen Powell and heard something of the circumstances, he wrote again.

(*a*) "I would sooner eat a dead pigeon taken from the soles of the feet of one sick of the plague, than kiss one of you fasting."—*The Duchess of Malfi*, Act II. Sc. i.

(*b*) Gurney, p. 44; Blanchard, p. 113.

The suddenness of the death, said he, had made a great noise in the country, Powell's character was at stake, and late as it was he desired a post-mortem examination in order to ascertain the cause of death. "As a friend to you," he continued, "I must say that it [the autopsy] will be a great satisfaction to me and I am sure it must be so to you, Lady Boughton, and Mrs. Donellan, when I assure you that it is reported all over the country that he was killed either by medicine or by poison." (*a*) He therefore requested Donellan to have the body opened immediately by Mr. Wilmer of Coventry or by Mr. Snow of Southam, in presence of Dr. Rattray of Coventry, or any other physician that the family might prefer. To this Donellan replied, "We most cheerfully wish to have the body opened for the general satisfaction, and the sooner it is done the better. Therefore I wish you could be here at the time." Sir William replied that it would be very improper for him, or indeed any other person except the faculty, to be present at the examination, and that the surgeons, a physician and Mr. Powell should proceed forthwith. "I hope that you understand," he wrote, "that it is not to satisfy my curiosity but the public that I wish to have this done, and to prevent the world from blaming any of us that had anything to do with poor Sir Theodosius." (*b*)

On the evening of the 4th, Dr. Rattray, Mr. Wilmer and the two other medical men arrived at Lawford Hall. They were received by Donellan, who informed them that the opening of the body was merely for the satisfaction of the family; he showed them Sir William's *last* letter, which contained no reference to the true reason, and he said nothing whatever about the suspicion of poison. While the coffin was being unsoldered the surgeons had supper and then went upstairs to their gruesome task. Six days had elapsed since death and the weather had been unusually hot; the condition of the body was such that they thought no useful purpose could be served by opening it, and so

(*a*) Gurney, p. 44; Blanchard, p. 113. (*b*) *Ibid.*, p. 45; p. 116.

departed without doing anything further. Next day, the 5th, Donellan dispatched to Sir William a highly disingenuous report of the surgeons' visit. "Upon the receipt of your last letter," he wrote, "I gave it to them to peruse and act as it directed; *the four gentlemen proceeded accordingly, and I am happy to inform you they fully satisfied us*; and I wish you would hear from them the state they found the body in, as it will be an additional satisfaction to me that you should hear the account from themselves." He then goes on to say that he had repeatedly warned the boy against the use of drugs: "but, as you knew Sir Theodosius, you will not wonder at his going his own way, which he would not be put out of." (*a*) From this Sir William naturally understood that the autopsy had taken place.

That same morning Mr. Bucknill, surgeon in Rugby, called upon his own account at Lawford Hall and offered to open the body, as he heard the family desired it. Donellan said that as the other surgeons had not done so, "it was impossible to do anything after men so eminent in their profession had declined." (*b*) Bucknill therefore withdrew. On the 6th Sir William, having learnt to his surprise that nothing had in fact been done and that Bucknill's offer had been refused, wrote to Donellan that he was arranging for an examination by that surgeon and by Mr. Snow of Southam. "If Snow is from home, I do not see any impropriety in Bucknill's doing it, if he is willing. I will send Snow to Bucknill, that if Bucknill should be gone to Lawford he may follow him." (*c*)

This, Wednesday 6th September, was the day of the funeral. At 2 p.m. Mr. Bucknill arrived again at Lawford; he proposed to have the body carried into the garden and opened forthwith. Donellan said they must wait until Snow came, so in order to save time Bucknill rode off to attend an urgent case in the neighbourhood, leaving word that he

(*a*) Gurney, p. 45; Blanchard, p. 116.
(*b*) *Ibid.*, p. 38; p. 98. (*c*) *Ibid.*, p. 46; p. 118.

would return shortly. Within an hour he got back to find that his colleague had come and gone. Donellan told him that "Mr. Snow had given his orders what to do, and they were proceeding according to those orders." So Bucknill rode away without even seeing the body. What Snow's "orders" were is not in evidence for he was not examined upon the trial, and at the inquest he merely concurred in the results of the post-mortem as deponed to by Drs. Rattray and Wilmer; but Mr. Howarth, in his opening address for the Crown, said, "Mr. Snow is told that Mr. Wilmer had declined opening the body," because in view of its condition, he thought it dangerous to do so.(*a*) The funeral arrangements were then completed; the remains of the boy baronet were deposited in the family vault of the Boughtons, whose sculptured monuments dismally "embellish" the south aisle and chancel of the old church of Newbold-upon-Avon, and his brother-in-law was able to breathe freely at last.(*b*)

Later in the day Sir William Wheeler received a letter from Donellan in which he said, "We fixed this day for the corpse to be buried as being the eighth day since Sir Theodosius died; and if the coffin had not been soldered by the plumber, Mr. Bucknill should be welcome to inspect the body. The time fixed for the burial is three o'clock to-day; and if you please to order it to be postponed until the state of the body is made known to you by the people you ordered to come here, please to let me know it before." This letter, though dated "A quarter before one o'clock," did not reach Sir William till the evening after the funeral, when both the matter and the grave were, as the writer thought, finally closed.(*c*) But the public and Mr. Coroner Fox were of a different opinion.

On Saturday 9th September, at the dwelling-house of

(*a*) Gurney, p. 10; Blanchard, p. 20. (*b*) Bloxam's *Rugby*, p. 192.

(*c*) Gurney, p. 46; Blanchard, p. 21. "Donellan's resistance to Sir William Wheeler's demand for a post-mortem examination was idiotic, for the chemistry of the day would have discovered nothing, while any abnormality of any organ that might have been present would have furnished some ground for defence" (Sprigge's *Physic and Fiction*, 1921, p. 285).

John Parker, clerk, in the parish of Newbold-upon-Avon, an inquest was held touching the death of Sir Theodosius Boughton. Earlier in the day the body had been taken from the vault and opened on a high tomb in the graveyard, on the south side of the church. Sir Henry Halford, afterwards President of the College of Physicians and then a boy at Rugby school, was an interested spectator.(*a*) Attendance at post-mortem examinations was not compulsory, but the Lawford affair, as we have seen, peculiarly intrigued the scholars. The autopsy was performed by Mr. Bucknill, in presence of Dr. Rattray and of Messrs Wilmer and Snow. Putrefaction was found to be far advanced; the stomach and bowels presented an appearance of inflammation; but the intestines were not further inspected, nor was the head opened, and the examination was in other respects incomplete.

While Lady Boughton was describing to the Court the circumstances of her son's sudden seizure and death a curious incident occurred. At the trial one of the coroner's jury afterwards swore that "when she [Lady Boughton] said that Captain Donellan rinsed the bottles, I saw the Captain catch her by the gown and give her a twitch."(*b*) On their return to the Hall after the adjournment Donellan found fault with his mother-in-law for her frankness. "You had no occasion," said he "to mention my washing the bottles, if they did not ask the question."(*c*) The Captain was shrewd enough to see the significance of the admission.

After the evidence of her Ladyship and the servants came the medical testimony. Mr. Wilmer "believed that at this time it is impossible to tell what occasioned the deceased's death." Dr. Rattray thought, from the symptoms of the deceased after taking the draught, "that the same was probably the cause of his death"; Mr. Bucknill and

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(*a*) Bloxam's *Rugby*, p. 192.

(*b*) Gurney, p. 42; Blanchard, p. 109. This fact was established by the whole of the jury in their letter to the *Coventry Mercury*, 23rd October 1780.

(*c*) Gurney, p. 19; Blanchard, p. 45.

Mr. Snow concurred in that opinion.(*a*) The inquiry was then adjourned. On its resumption on the 14th Lady Boughton, recalled, was examined in greater detail as to Donellan's doings in the death chamber, and Sarah Blundell corroborated her mistress as to the removal by his orders of the fatal bottle. Whereupon the jury returned a verdict of Wilful Murder against Donellan, who on the coroner's warrant was forthwith apprehended and taken to Rugby, thence to Coventry, and finally to Warwick, where he remained in gaol until his trial.

Now the Captain, anything but obtuse, and aware of his suggestion that death was due to natural causes receiving scant support from the evidence and less from public opinion, had addressed to the jury on the last day of the sitting a letter in which he gave them "every information he could recollect" as likely to assist their judgment. His new theory was as follows: Lawford Hall "swarmed remarkably" with rats; Sir Theodosius "used to have arsenic by the pound weight at the time," with which he waged incessant war upon the rodents, and so extremely careless was he in disposing of it, despite repeated expostulations, that "at table we have not knowingly eaten anything for many months past which we perceived him to touch." These statements were afterwards at the trial disproved. The sole purpose of the letter was to induce the jury to believe that the boy had accidentally poisoned himself, but though it failed in its object it was so far successful as to suggest to the Crown doctors that arsenic was the poison employed, an allegation which, as we shall find, was even made in the indictment.(*b*) The time-honoured connection between

(*a*) Depositions taken at the Coroner's Inquest, *A Defence . . . of John Donnellan, Esq.*, 1781, pp. 2-3.

(*b*) "It is not by one character, but by many, that a poison is identified; and therefore a suspicion derived from a few incipient experiments is very likely to be overthrown by continuing the investigation. In the Boughton case Dr. Rattray gave an opinion in the first instance that the poison administered to the deceased was arsenic; but he subsequently attributed death to laurel water" (Taylor *On Poisons*, 1848, p. 139).

arsenic and rats is too well known to call for comment, but one might have expected a person of the Captain's ability to evolve a more original device.

Though the popular verdict endorsed that of the inquest, the *Coventry Mercury* opened its columns to an animated controversy on the merits of the case conducted, to adopt a correspondent's phrase, by certain "servile tools of Mr. Donellan." This correspondence was afterwards reprinted in an edition "consisting of twelve copies upon drawing paper," together with an engraving of Lawford Hall, reproduced with the present article.(*a*) Sundry charges were made against the coroner and the doctors of having leagued themselves with Donellan to defeat the ends of justice, and the jury was said to have been "composed of neighbouring farmers, irritated at the Captain for having persuaded Lady Boughton to raise her rents." The officials concerned took no notice of these slanderous statements, but the jury signed a joint letter affirming that only one of their number was a tenant of the Boughtons and that the rest had no connection with any of the family. Lady Boughton also wrote denying the false reports published of her evidence, and declaring that "the charge accusing Mr. Wilmer, surgeon of Coventry, with having been closeted at my house a considerable time with Mr. Donellan on Saturday the 9th of September, is a most detestable falsehood." So far, indeed, was Mr. Wilmer from favouring Donellan, that he afterwards published in the press a statement pointing out that he was the first to suspect the presence of laurel water in the draught, from Lady Boughton's description of the smell and the fact of the Captain possessing a still.(*b*)

The motive alleged by the Crown to have actuated Donellan in taking his brother-in-law's life was thus stated by Mr. Howarth at the trial: "Had he [Sir Theodosius] attained to the age of twenty-one years he would have had

(*a*) *Letters and Paragraphs printed in the "Coventry Mercury" in* 1780 *and* 1781 *relating to Captain John Donellan.* Leamington, 1845

(*b*) *Political Magazine*, 1781, p. 278.

LAWFORD HALL, WARWICKSHIRE.

(From a contemporary print.)

in his own power and at his own disposal a great and opulent fortune. In the event of his dying before that time, by much the greater part of that fortune descended to his sister, who is the wife of the prisoner, Mr. Donellan, and he in her right would have been entitled to a life estate in this considerable fortune."(*a*) Upon this point Sir James Fitzjames Stephen, in his study of the case, gives on the authority of his grandfather, who had it from Donellan's attorney, an enlightening anecdote. When the conduct of the defence was being considered, it was proposed to retain the celebrated Mr. Dunning. "Donellan agreed, and referred the attorney to Mrs. Donellan for authority to incur the necessary expense. Mrs. Donellan said she thought it needless to pay so high a fee. When the attorney reported this to Donellan, he burst into a rage and cried out passionately, 'And who got it for her?' Then, seeing he had committed himself, he suddenly stopped."(*b*) The lady, like Mistress Gilpin, had a frugal mind, but its manifestation was less pleasing to her husband than was the case with the immortal John.

Though this indiscretion did not come out at the trial, a further lack of tact was sworn to by one Darbyshire, confined in Warwick gaol for debt. In the course of a conversation with his fellow-prisoner he asked the Captain whether Sir Theodosius really was poisoned. "He [Donellan] said there was no doubt of it; it was done among themselves—Sir Theodosius, Lady Boughton, the footman, or the apothecary." On Darbyshire objecting that suicide was in the circumstances improbable, that the footman had nothing to gain and the apothecary stood to lose by the death, and "it was very unnatural to suppose Lady Boughton would do it," Donellan admitted the weight of these reasons; but with regard to the mother "he spoke of my Lady's covetousness, how covetous she was," and said

(*a*) Gurney, p. 5; Blanchard, p. 6. Lady Boughton stated the income at over £2000 a year (Gurney, p. 16).

(*b*) *A General View of the Criminal Law of England*, 1890, p. 222 *n.*

she had received an anonymous letter "charging her plump with poisoning Sir Theodosius," as to which she had sought to purchase his [Donellan's] silence.(*a*) He even had the hardihood to repeat and aggravate the charge in a letter to his wife, written from prison on 8th December: "I hope by this time that you have removed under the friendly roof I last recommended to you, and no longer remain *where you are likely to undergo the fate of those that have gone already by sudden means*, which Providence will bring to light by-and-by." Sir Edward Boughton had died suddenly of apoplexy, and the amiable suggestion is that he too had been murdered by Lady Boughton. "I had my reasons," continues the Captain, "which will appear in an honest light in March next [*i.e.* at the trial], *to the eternal confusion of an unnatural being.*" (*b*)

In due course the Grand Jury having found a True Bill, the trial began before Mr. Justice Buller at Warwick Assizes at 7.30 A.M. on Friday 30th March 1781. There was a formidable array of counsel: for the Crown, Messrs Howarth, Wheeler, Balguy, Guest, and Digby, instructed by Mr. Caldecott of Rugby; for the defence, Messrs. Newnham, Green, and Dayrell, instructed by Mr. Inge of Coventry. The indictment charged the prisoner with the murder of Sir Theodosius Boughton by substituting for his medicine "two drachms of arsenic," infused and mixed with water in a glass phial, and placing the same in his bedroom, which, taken by him in mistake for his medicine, caused his death. As we have seen, the doctors, accepting Donellan's friendly hint, at first supposed that the poison was arsenic, but further information and experiments satisfied them that it was laurel water.(*c*) Mr. Howarth, having opened the case at

(*a*) Gurney, p. 42; Blanchard, p. 110. This infamous suggestion, subversive of the defence set up for him at the trial that death was due to apoplexy or epilepsy, was afterwards maintained by Donellan in his posthumous vindication. —Case of John Donnellan, in *A Defence*, etc., *passim*.

(*b*) Gurney, p. 13; Blanchard, p. 26. The latter reads "mother" for "being."

(*c*) In Scots criminal practice an indictment charging murder by *arsenic*, when the poison was in fact *laurel water*, would not have been found relevant to infer the pains of law.

large in an admirable speech, proceeded to lead evidence in support of the charge.(*a*) As I have already drawn considerably upon the proof for the purpose of the foregoing narrative, it remains only to notice certain aspects of the evidence adduced, and the points made in cross-examination.

Powell, the apothecary, was the first witness. He described the draught sent by him to Sir Theodosius and his summons to the Hall after the death. He produced two 2-oz. phials containing a similar draught, to one of which laurel water had been added. The last time he saw the baronet alive was on the day before his death, when he seemed in good health and great spirits. Powell was not asked his opinion as to the cause of death.

Lady Boughton retold the story of the fatal draught and its consequences with such slight variations as are inseparable from the repetition by a witness of former statements after a lapse of time. As to the cardinal facts of the strong bitter-almonds smell, the instantaneous effects, the swift death, and Donellan's rinsing of the bottles, however, her Ladyship's recollection was clear. Asked to smell the draught containing laurel water prepared by Powell, she at once recognised its smell as similar to that of the medicine she had given her son. On the day of the death Donellan in her presence said to his wife "that her mother had been pleased to take notice of his washing the bottles out, and that he did not know what he should have done if he had not thought of saying he put the water into it, to put his finger to it to taste." (*b*) Plainly her Ladyship must have expressed some suspicion of his conduct, for he next rang the bell for the coachman and asked whether he remembered him [the Captain] setting out at seven o'clock that morning by the iron gates to Newnham Wells. "Yes, sir," replied

(*a*) Counsellor Henry Howarth, "the admired advocate," was drowned in a boating accident on the Thames near Mortlake on 11th May 1783, aged "about thirty-six." He was a K.C., and M.P. for Abingdon. His mistress was Miss Chippendale, a daughter of the famous cabinetmaker. *Gentleman's Magazine*, 1783, i. 453. Cf. *Town and Country Magazine*, xii. 121, which contains a portrait.

(*b*) Gurney, p. 19; Blanchard, p. 43.

William. "Then," said Donellan, "you are my evidence." (*a*) Thus before the body was cold did the prudent Captain begin to prepare his defence. Lady Boughton was cross-examined as to certain quarrels in 1778 and 1779 between Sir Theodosius and other gentlemen, one at Bath and two at Rugby, in which she admitted that Donellan at her request intervened to prevent further trouble; but she did not remember her son telling her that the Captain had saved his life when he climbed up the steeple of Newbold church and tumbled from the weather-cock.(*b*) After the administration of the draught and before her return to the room, she called to Donellan from a window that she would be ready to ride in a quarter of an hour; she then thought her son was falling asleep. Her Ladyship was subjected to a good deal of browbeating as to sundry slight differences between what she now stated and what she had deposed to at the inquest, but upon the main points, as I have noted, her evidence was unshaken. Re-examined as to the relations between the Captain and his brother-in-law, Lady Boughton said, "They used to have words, to be angry with each other; they did not in general live in friendship or intimacy." (*c*)

Catherine Amos, cook, one of the maids who witnessed the death—the other, Sarah Blundell, had since died—corroborated her mistress's account of Sir Theodosius's last moments. A fortnight after his death Donellan brought to her a still which had been washed, asking her to dry it in the oven. She said that would unsolder it, as it was made of tin.(*d*)

The Rev. Mr. Newsam having repeated the conversation had by him with Donellan about the baronet's health on the Saturday before his death, and Mr. Kerr, surgeon in Northampton, having described his treatment of Sir Theo-

(*a*) Gurney, p. 19; Blanchard, p. 43. William Frost, in corroboration, *ibid.*, p. 39; p. 101.

(*b*) *Ibid.*, p. 21; p. 48. This incident, if true, merely shows that Donellan was not then seeking the boy's death.

(*c*) *Ibid.*, p. 22; p. 54.

(*d*) *Ibid.*, p. 23; p. 57.

dosius while at a tutor's there, Dr. Rattray was sworn. He gave an account of his visit to Lawford Hall on the 4th, and of the exhumation and autopsy on 9th September. "Independent of the appearances of the body," said he, "I am of opinion that the draught, in consequence of the symptoms which succeeded the swallowing of it as described by Lady Boughton, was poison, and the immediate cause of his death." (*a*) Powell's mixture as prescribed was innocent; the other phial produced contained a distillation of laurel leaves, commonly called laurel water.(*b*) He then described in detail various experiments made by him as to the effects of that poison upon living animals: two ounces given to a dog caused it to drop down dead; a pint and a half administered to a mare produced death, after convulsions, in fifteen minutes; half an ounce given to a cat proved fatal in three minutes. Their bodies were opened, and in all of them was found "a violent distention of the veinous system," vulgarly termed inflammation. Lady Boughton's description of the smell of the draught as "very like bitter almonds" was highly typical; many persons whom he had asked to smell laurel water used the same expression. His opinion was "confirmed in so far as, upon the viewing a body so long after the death of the subject, one can be allowed to form a judgment upon such appearances." (*c*) Cross-examined by Mr. Newnham, witness admitted that the subjects of his experiments were instantly opened, whereas the body was not examined until the eleventh day after death. He would not agree, however, that all the appearances found were due to putrefaction. He did not pursue his search through the bowels. At first he thought that death was caused by arsenic, but afterwards, "upon

(*a*) Gurney, p. 27; Blanchard, p. 67.

(*b*) "The prisoner, it is supposed, substituted for a purgative draught two ounces of laurel water. Admitting that the laurel water had no greater strength than that just now assigned to it, the deceased must have taken 2·4 grains of pure hydrocyanic acid, a quantity equal to fifty drops of Scheele's prussic acid" (Taylor *On Poisons*, p. 717).

(*c*) Gurney, p. 28; Blanchard, p. 71.

information received," changed his opinion. Pressed as to the possibility of Sir Theodosius having broken a blood-vessel, the doctor replied, "Everything is possible under God"; but he maintained that the symptoms were entirely different from those of apoplexy or epilepsy. Now, if Mr. Newnham had sat down, and had not, like his learned friend Mr. Phunky in another *cause célèbre*, attempted to make more of the witness, it had been better for his client; for he went on to elicit a fact of first importance to the prosecution, a fact which, unaccountably omitted in the examination-in-chief, humbly appears to me in itself well nigh decisive of the Crown case.

Q. Did you observe or smell that liquor which came out of the stomach? *A.* I could not avoid smelling it. *Q.* Had it the same offensive smell? *A.* It in general had; one could not expect any smell but partaking of that general putrefaction of the body; but I had a particular taste in my mouth at that time, a kind of biting acrimony upon my tongue. And I have in all the experiments I have made with laurel water always had the same taste from breathing over the water, a biting upon my tongue and sometimes a bitter taste upon the upper part of the fauces. *Q.* Did you impute it to that cause then? *A.* No, I imputed it to the volatile salts escaping the body. *Q.* Were not the volatile salts likely to occasion that? *A.* No. I complained to Mr. Wilmer, "I have a very odd taste in my mouth, my gums bleed." *Q.* You attributed it to the volatility of the salts? *A.* At that time I could not account for it, but in my experiments afterwards with the laurel water, the effluvia of it has constantly and uniformly produced the same kind of taste; there is a very volatile oil in it, I am confident.(*a*)

Re-examined, witness said that had Donellan mentioned the suspicion of poisoning, "I should have sat there for a month rather than have left the body unopened."

Mr. Bradford Wilmer (*b*) corroborated Dr. Rattray as to what happened on their visit to the Hall on 4th September, and concurred in the report of the post-mortem appearances. He had assisted at the experiments with laurel water and agreed with the doctor regarding the results, and with his opinion of the cause of death. In cross-examination, witness

(*a*) Gurney, p. 32; Blanchard, p. 83. (*b*) *Ibid.*, p. 33; p. 85.

considered the symptoms quite distinct from those of epilepsy, of which he had large experience. Donellan showed no reluctance to having the body opened.

Dr. Ashe, physician in Birmingham,(*a*) and Dr. Parsons, Professor of Anatomy at Oxford,(*b*) having heard the evidence, were clearly of opinion that death was due to laurel water in the draught, and negatived the suggestion of apoplexy or epilepsy.

Mr. Samuel Bucknill, surgeon in Rugby,(*c*) described his offer to open the body and Donellan's refusal, as before narrated. He was not cross-examined.

William Frost, coachman, and Samuel Frost, footman, told their tale. William was the Captain's "evidence" as to his early ride to Newnham Wells; Samuel spoke to the delivery of the draught and Donellan's absence from the fishing. The dinner-hour at the Hall was "about two or three o'clock or sometimes later"; he did not see the Captain that day between dinner and seven o'clock, when he saw him in the garden "with my Lady and Madam Donellan."

Mary Lynes, Mrs. Donellan's maid, stated that the Captain kept in his own room a still, in which he frequently distilled roses.(*d*)

Francis Amos, gardener,(*e*) said he was at the fishing party, but saw nothing of the Captain. Two or three days after the death, Donellan brought to him a still full of wet lime, which the Captain said he used "to kill fleas."(*f*)

(*a*) Gurney, p. 35; Blanchard, p. 92. (*b*) *Ibid.*, p. 37; p. 95.

(*c*) Mr. Bucknill was the grandfather of Sir John Charles Bucknill (1817-1877), physician, and father of Mr. Justice Bucknill. Sir John examined Constance Kent, the Road murderess of 1860; it is curious that both grandfather and grandson should be the medical "heroes" of two famous crimes.

(*d*) "Now I have the rope round his neck which will hang him!" exclaimed Mr. Howarth, on learning that the Captain used a private still (Townsend's *Lives of Twelve Eminent Judges*, 1846, vol. i. p. 14).

(*e*) Gurney, p. 41; Blanchard, p. 107.

(*f*) "Donellan was so bad a chemist that on being asked for what purpose he had procured this machine, he replied that he had used it to make lime-water to kill the fleas, not knowing that lime-water can only be made by saturating water with lime, and that a still never was, and never can be, applied to such a purpose" (Townsend's *Lives*, i. 14).

Witness had got lavender for him to distil. There were laurel bushes in the garden. Cross-examined, Mr. Fonnereau arrived at Lawford the day after the death.

William Crofts, one of the coroner's jury, having told how Donellan pulled Lady Boughton by the sleeve when she spoke of his rinsing the bottles, John Darbyshire,(*a*) the Captain's fellow-prisoner, repeated their conversation about Sir Theodosius being poisoned. Cross-examined, he admitted having been twice a bankrupt, but protested that he "fell fairly."

Sir William Wheeler described his efforts to have the body opened and identified his correspondence with Donellan to that end.(*b*) In cross-examination, he stated that Sir Edward Boughton, the father of his ward, died suddenly of apoplexy while walking home. Re-examined, Sir Edward was a short, thick-set, fat man of sixty; Sir Theodosius was much taller than his father and very thin.

Two witnesses were called to speak to a copy of the letter written by Donellan to his wife, from which Mr. Howarth had quoted in his opening speech; but the Court refused to allow the copy to be put in.(*c*)

As in those days counsel for a prisoner was not permitted to address the jury, the Captain's written defence was then read by the Clerk of Arraigns.(*d*) Now, the Captain had heard the evidence, and he was astute enough to see how many were the matters gravely to his prejudice which would have to be explained away if his innocence were to be established. Yet this carefully prepared and considered statement makes no reference whatever to his rinsing of the bottles or to any of the other points proved against him, but is devoted to an account of his fencing with the faculty as to the proposed post-mortem, in which he has the misfortune to differ from the sworn testimony of the doctors concerned. His assertions, too, that he married his wife "with the entire appro-

(*a*) Gurney, p. 42; Blanchard, p. 109.
(*b*) *Ibid.*, p. 43; p. 112.
(*c*) Blanchard, pp. 120-123. (*d*) Gurney, p. 47; Blanchard, p. 123.

bation of her friends and guardians," and had since lived with his brother-in-law "in perfect friendship and cordiality," we know to be equally false; and his allegation that he had executed a marriage settlement whereby he had divested himself of all interest in her fortune and expectations, was not supported by production of that document. For the rest, as to his highly suspicious behaviour before, at, and after the death, he maintained what Sir James Stephen well terms a most significant silence.(*a*)

The first witness for the defence, Andrew Miller, sometime landlord of "The Bear and the Ragged Staff," Rugby,(*b*) said that at an assembly held in his house on 1st June 1778 Sir Theodosius Boughton quarrelled with one Mr. Wildgoose of Daventry, and that Donellan prevented a meeting between the parties; and George Loggie stated that "about a year and a half ago" he witnessed at Rugby a quarrel between Sir Theodosius and Mr. Chartres, a clergyman, whom the baronet insisted on fighting; Donellan was sent for, but the affair was settled before he came.

The defence next unmasked their great gun, the celebrated John Hunter.(*c*) As this is probably the sole occasion on which that distinguished surgeon appeared in Court to testify in a case of poisoning, his examination is of peculiar interest.(*d*) He said that during the last thirty-three years he had dissected some thousands of human subjects. He had heard the evidence. The whole appearances upon

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(*a*) *General View of the Criminal Law*, p. 225.

(*b*) This historic hostelry still survives in altered form as the well-known book shop, No. 22 the Market Place. The house now assuages the thirst of modern Rugbeians for knowledge, as of old it supplied their forefathers for over three hundred years with less ethereal refreshment. In the long upper room on the first floor were held the assemblies referred to in the text, and there sat the magistrates when Donellan was brought a prisoner before them.—Norman Gale's *A Famous Book Shop*, 1914, pp. 10-11.

(*c*) John Hunter (1728–1793), the famous surgeon and anatomist, the father of modern surgery, is buried in Westminster Abbey. His collections were acquired by the College of Surgeons in 1800, the annual Hunterian oration being first given in 1813.

(*d*) Gurney, p. 49; Blanchard, p. 128.

dissection explained nothing but putrefaction. The symptoms pointed to apoplexy, although that was less frequent in young subjects than epilepsy. Had the head been opened and the intestines examined all doubts would have been removed. From the appearances no inference could be drawn that the deceased died of poison. Mr. Hunter was cross-examined at great length by Mr. Howarth. Three times counsel asked whether, in view of the symptoms immediately following upon the draught, witness did not think that it occasioned the death. The anatomist first "didn't know well what answer to make"; then said, "I own they are suspicious: every man is just as good a judge as I am"; and finally, "I can only say that it is a circumstance in favour of such an opinion." Pressed a fourth time by the judge, he replied, "If I knew the draught was poison I should say, most probably, that the symptoms arose from that; but when I don't know that the draught was poison, and when I consider that a number of other things might occasion his death, I cannot answer positively." He had experimented with laurel water; the symptoms had not followed so quickly as those observed by the Crown witnesses. "But do you admit that laurel water would produce such symptoms as have been described?" asked Mr. Howarth. "I can conceive it might," was the reply. In re-examination by Mr. Newnham, witness said that apoplexy was constitutional; there was an hereditary disposition to that disease, and Sir Theodosius's father had died of it. Mr. Justice Buller made a last effort to get witness's real opinion as to the cause of death. "I do not mean to equivocate," said the man of science; "but when I tell the sentiments of my own mind, what I feel at the time, I can give nothing decisive." (*a*)

(*a*) "The medical evidence in this case has been much canvassed," writes Professor Christison, "and especially that of Mr. John Hunter . . . but I must frankly observe that Mr. Hunter's evidence does him very little credit, and that his high professional eminence is the very reverse of a reason for palliating his errors or treating them with the lenity which they have received from his numerous critics" (*Treatise on Poisons*, 1829, p. 581). That Mr. Hunter was himself dissatisfied with his appearance in this case is stated by Sir Astley

The proof being closed Mr. Justice Buller (*a*) proceeded to charge the jury.(*b*) His Lordship's summing up of the evidence was lucid and masterly, but left little doubt as to his own sentiments regarding the prisoner's guilt.(*c*) Circumstances, he told the jury, were often more convincing than positive evidence; whether or not the circumstances in this case amounted to such conviction was a matter for their decision. The first question was, did the deceased die of poison? All the physicians and surgeons called for the Crown, having regard to the symptoms, the post-mortem appearances, and the results of experiments with laurel water, were unanimously of opinion that he did. As against that consensus of positive opinion was what his Lordship could only call the doubt of Mr. Hunter. That eminent gentleman would say nothing definite: it might have been apoplexy or epilepsy; but he was brought to admit that it might also have been poison, and that poison laurel water. If they had any doubt upon the medical evidence, they must take into consideration all the other circumstances of the case and every part of the prisoner's conduct. For some weeks prior to the event he was foretelling the death of Sir Theodosius before he came of age; the night before the death he falsely said he had been at the fishing and had

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Cooper: "He found himself a good deal embarrassed, and he used to express his regret publicly in his lectures that he had not given more attention to the subject of poisons before he ventured to give an opinion in a court of justice" (Lectures in the *Lancet*, vol. iii. p. 171).

(*a*) Sir Francis Buller (1746–1800), Barrister of the Inner Temple, 1772; Justice of the King's Bench, 1778; created baronet, 1790; Justice of the Common Pleas, 1794–1800.

(*b*) Gurney, p. 52; Blanchard, p. 136.

(*c*) "At the assizes, on the Sunday," says Cradock, "we all dined in Nework's, Leicester; there was present Judge Buller, Counsellor Newnham, and some gentlemen, who were all to meet again next week at Warwick; the general conversation was Donellan, and his guilt was asserted by all; the only doubt seemed to be that as Lady Boughton, the mother, was all but a fool, her evidence, which was necessary, might not be effective; but it was acknowledged that she had been privately examined at the judge's chambers in town, and they thought she might be produced. I am sorry to say it, that Judge Buller's charge at Warwick was imprudent, for it prejudged, or rather condemned, Donellan" (*Literary and Miscellaneous Memoirs*, iv. 151–154).

warned the boy against taking cold; when summoned to the death chamber he asked, "What do you want?" though the servant had just taken his horse to ride post haste for the doctor. As to the washing of the bottles, "was there anything so likely to lead to a discovery as the remains, however small, of the medicine in the bottle? but that is destroyed by the prisoner." He said the stockings were wet; Lady Boughton found that they were dry. The keeping back from the surgeons of Sir William Wheeler's letter giving the suspicion of poison as the reason for opening the body, was the means of preventing that examination. The prisoner also prevented Mr. Bucknill from doing so; how he got rid of Mr. Snow was not in evidence, for that gentleman was not called as a witness. The prisoner was in the possession of a still. It might have been used for honest purposes, but it was capable of producing the poison employed. Shortly after the death he brought it to the gardener; it was then filled with lime, with which he said he had been killing fleas. Why should he think it necessary to make any excuse? As to what happened at the inquest, why should the prisoner check Lady Boughton when she mentioned his washing of the bottles, unless he wanted to suppress the truth? If he were innocent, how could the truth affect him? Then there was his statement to Darbyshire that Sir Theodosius had certainly been poisoned, a statement at variance with his whole former contention. The prisoner said in his defence that he wished all along to have the body opened; but if it were proved that he in fact repeatedly prevented it, the jury would have to consider with what object that was done. "As against him, every circumstance I have been speaking of is a degree of proof, and that circumstance (to which I can find no answer whatever) of his rinsing out the bottle, does carry strong marks of knowledge in him that there was something in that bottle which he wished should never be discovered." The prisoner stated that he had no interest in his wife's fortune and therefore no motive for the commission of the

crime; but whether any settlement was in fact made on his marriage or what that settlement might be, was not in evidence. He was proved to have interposed on one occasion to stop Sir Theodosius fighting a duel, but that occurred two years before the death. They must take all these circumstances together in deciding upon the prisoner's fate.

The jury retired to consider their verdict at 6.25 P.M., and in ten minutes they returned to Court with a unanimous finding of guilty. In passing sentence of death Mr. Justice Buller commented on the peculiar aggravations of the prisoner's guilt.

> The manner and the place in which this dark deed was transacted and the person on whom it was committed, much enhance your guilt. It was committed in a place where suspicion, at the instant, must have slept; where you had access as a bosom friend and brother; where you saw the rising representative of an ancient family reside in affluence; but where your ambition led you proudly but vainly to imagine that you might live in splendour and in happiness if he, whom you thought your only obstacle, were removed. Probably the greatness of his fortune caused the greatness of your offence; and I am fully satisfied upon the evidence given against you that avarice was your motive, and hypocrisy afforded you the means of committing this offence. That the deed was done by you which not only hastened him, but must very soon bring you to an untimely grave, has been fully proved to the satisfaction of myself and the jury, and I think it is impossible to find any, even of the meanest capacity, amongst the numerous auditory standing around you, that can doubt about your guilt.(*a*)

However well warranted was his Lordship's appreciation of the capacity of his audience, there have not been wanting among a less intelligent posterity some who believed in Donellan's innocence. Dease notices the case as "a melancholy and striking instance of the unhappy effects of popular prejudice, and the fatal consequences of medical ignorance"; (*b*) and Phillips adduces it as a scandalous example of a man wrongly convicted on circumstantial

(*a*) Gurney, p. 58.
(*b*) Dease, in Cooper's Tracts, p. 88.

evidence.(*a*) Peter Burke, in his account of the trial remarks: "This is perhaps one of the most celebrated and the most extraordinary cases of poisoning on record. The great mystery attached to the whole horrible transaction, and the doubt which still remains as to the prisoner's guilt, render the story one of unfading interest."(*b*) G. P. R. James, of romantic memory, "convinced that Captain Donellan had been convicted upon insufficient evidence," embodied his belief in a three volume novel founded upon "the too-celebrated tragedy of Lawford Hall." (*c*) Other writers have been satisfied that justice was done; and among the works illustrative of Donellan's guilt may be mentioned the admirable abridgments of the case furnished by Beck (*d*) and by Sir James Stephen, (*e*) and Sir Willoughby Maycock's interesting study.(*f*) A recent and high authority, Sir Alfred Wills, in the last edition of his father's standard work, expresses approval of the verdict.(*g*)

One of my Lord's auditors at least, as in the circumstances is not surprising, declined to concur in the judgment —the prisoner at the bar. The short interval remaining between his condemnation on Friday 30th March and the execution of the sentence on Monday 2nd April 1781, was employed by him in preparing for publication by his solicitors after his demise an elaborate vindication of his innocence. This document, as afterwards published and solemnly attested by him on the day before his death,(*h*) may best be defined as length without breadth. Plausible

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(*a*) *The Theory of Presumptive Proof*, 1815, *passim*. The *ex parte* arguments of Phillips derive their support from the suppression of the most material facts, *e.g.* Donellan's possession of a still.

(*b*) *Celebrated Trials connected with the Aristocracy in the relations of Private Life*, 1849, p. 49.

(*c*) *Sir Theodore Broughton; or Laurel Water*, London, 1849.

(*d*) *Medical Jurisprudence*, 1836, p. 894.

(*e*) *General View of the Criminal Law*, p. 211.

(*f*) *Celebrated Crimes and Criminals*, 1890, p. 31.

(*g*) Wills *On Circumstantial Evidence*, 1912, p. 386.

(*h*) *A Defence and the Substance of the Trial of John Donnellan Esq.* . . . London, 1781.

and ingenious, as a piece of special pleading it does no discredit to the ability of the composer; but regarded as a refutation of the sworn facts, it leaves much to be desired. The foundation of the *Defence*, that the murder was committed by Lady Boughton, who inculpated Donellan in order to escape the consequences of her own crime, finds no support from the evidence, and his failure credibly to account for so many damning circumstances is not redeemed by the blame which he ungenerously casts upon his counsel. Like his accomplished successor of Rugely, he believed that "it was the riding that did it." On the question of motive he maintains it was his interest to preserve his brother-in-law's life, as Sir Theodosius had promised on coming of age to present him to the livings of Great Harborough and Newbold-upon-Avon, each worth upwards of £200 a year, "in case he (Mr. Donellan) would take orders, which he has been preparing to do for these two years past in consequence of such promise."(*a*) One knows that in the eighteenth century the Church of England was at a low ebb, but it is startling to find the ranks of her clergy recruited from persons of Donellan's character and antecedents. Perhaps the most enlightening passage in the *Defence* is that in which the Captain admits an acquaintance with laurel water—

> He acknowledges that he has at times used laurel leaves, but then it was along with other ingredients for preparing an aromatic bath for his feet, which he constantly used after a fit of the gout, and found it to be very strengthening and serviceable.(*b*)

This is pleasantly anticipatory of the use of arsenic as a toilet requisite, alleged by Miss Madeleine Smith and by Mrs. Maybrick. For this remarkable recipe Donellan refers us to "a book entitled *The Toilet of Flora*, published in the year 1779." My bibliographical knowledge is unequal to the task of verifying his citation; but I am able to furnish from his own library a more relevant reference :—

(*a*) *A Defence, etc.*, p. 19. (*b*) *Ibid.*, p. 21.

It is a fact no less singular than true that the very volume of the *Philosophical Transactions*, and that only, which contains an account of the poisonous effects of laurel upon the human body and upon brutes, was found in Mr. Donellan's distilling chamber, and the leaf was doubled in that part where Dr. Mortimer prescribes the mode of preparing the water. This circumstance, at the time of the trial, was only known to the gentlemen of the law concerned for the prisoner.(*a*)

It is unfortunate that the knowledge was not shared by Crown counsel.

The Captain met his doom with professional intrepidity. From an "Authentic Account of Capt. Donellan's Behaviour in Prison after Conviction and at the Place of Execution,"(*b*) it appears that the time before his death was divided equally between his devotions and the preparation of his *Defence*. His ghostly counsellors, impressed by the evidence against him, urged him to confess his crime. He answered that he knew his own heart, and would with his last breath assert his innocence. On the appointed day, at 7 A.M., he was taken in a mourning coach to the place of execution, attended by the Sheriffs and "an incredible concourse of spectators," to whom, in royal fashion, he bowed continually as he drove along. At the scaffold he thus addressed the multitude :—

As I am about to appear before the judgment seat of Almighty God, to whom the secrets of all hearts are known, I solemnly declare that I am innocent of the crime for which I am now going to suffer. I have drawn up a vindication of my character, which, when it appears, I hope the world will believe as the last words of a dying man, who here falls a sacrifice to the malice and black devices of a mother-in-law.

Then, turning to the celebrant of that grim ritual, "Pray," said he, "do not let us have any bungling"—his anxiety to make a decent exit resembles that of Miss Mary Blandy in similar trying circumstances—and dropping a white handkerchief he was launched into eternity. After hanging an hour by the Sheriff's watch, the body was cut down and carried to the Town Hall for dissection.

(*a*) The *Political Magazine*, 1781, p. 279; the *Westminster Magazine*, April 1781, p. 176.

(*b*) The *Political Magazine*, April 1781, p. 215.

On the publication of his posthumous *Defence* the following queries were put to Donellan's solicitor in the press (*a*):—Did he not, on the morning after the trial, in the public room of the Three Tuns Inn, Warwick, say that his client was guilty; that fifty more circumstances to prove it might have been found; that Donellan intercepted the message sent by Bucknill to Snow; and that he [the Captain] had remarked that a greater work was made about killing one man in England than about killing twenty in Ireland—an observation of which the justice is still sufficiently apparent. As to these points, however, the solicitor maintained a discreet silence.

The manor of Little Lawford was sold in 1790 by Sir Edward Boughton, eighth baronet and second cousin of Sir Theodosius, to John Caldecott of Rugby. Lawford Hall was taken down and the mansion-house disposed of in lots as building material, a portion of the stables only being suffered to remain, which is now attached to a farmhouse built near the site.(*b*)

Mrs. Donellan, to whom the residue of the estate had passed, survived till 13th January 1830, and her monument may be seen in Newbold Church. Despite her trying experience with Donellan, the lady twice more adventured upon the perilous seas of matrimony. Her three husbands were irreverently known as the Pendent, the Independent, and the Dependent. The application of the first term is obvious; the second refers to Sir Egerton Leigh, a baronet of Nonconforming principles who preached his own sermons; the third, to the celebrated Barry O'Meara, Napoleon's surgeon in exile and author of *A Voice from St. Helena*, whom she is said to have espoused in her enthusiasm for the Man of Destiny. Her ladyship's taste in husbands was catholic, and few wives could boast so varied a collection.

(*a*) The *Coventry Mercury*, 4th June 1781.

(*b*) Smith's *History of the County of Warwick*, 1829, p. 180; Bloxam's *Rugby*, p. 186.

"INDIAN PETER":

AN OLD EDINBURGH PORTRAIT

"INDIAN PETER":

An Old Edinburgh Portrait

This vacance is a heavy doom
On Indian Peter's coffee-room,
For a' his china pigs are toom;
Nor do we see
In wine the sucker biskets soom
As light's a flee.

But stop, my Muse, nor mak' a main,
Pate disna fend on that alane;
He can fell twa dogs wi' ae bane,
While ither fock
Maun rest themselves content wi' ane,
Nor farer trock.

ROBERT FERGUSSON: *The Rising of the Session.*

TO every sense but one, Edinburgh in the fall of the eighteenth century must have been a city of pure delight. The Auld Reikie of Fergusson's engaging muse, inhabited by the quaint folk preserved in Kay's incomparable portraits, like King Tutankhamen in his tomb, for the wonder of the posterities—what would not one give if, by an extension of the licence taken nowadays with Time, it were possible so to put back the clock as to let us view with our very eyes her vanished glories?

I suppose that in such a case the first appeal made to our senses would not be to that of vision. Edinburgh was admittedly no rose garden; her "Flowers" were proverbial as among the most ill-savoured in Europe. There is a wicked tale told by an English stranger within her gates, of an aged indweller who for some reason or another flitted to Corstorphine. In the purer atmosphere of that yet uncontaminated village the old lady fell grievously sick.

The Faculty consulted, it was agreed that her native air was vital to her continued existence ; she was too ill to be removed, so all the household slops were assembled in her bedchamber, and the patient, inhaling with satisfaction the abominable result, sat up and presently recovered. The malice of the traveller is obvious, but I fear he could plead justification for his slander.

One would like to know how the beaux and belles and periwigged burgesses, with their powdered heads, silken hose, and brave apparel, managed to pick their way about the wynds and closes, where amid offensive garbage pigs continually rooted, and where at the ten hours' bell, from each window of the close-piled tenements descended a deluge fraught with nameless horrors, from which the warning cry of "Gardy loo!" (*Gardez l'eau*) and the agonized response, "Haud yer hand!" afforded but inadequate protection. Use is second nature, and if we accept the evidence of the Corstorphine cure, it may even be that they found such aromatic conditions grateful.

There were compensations, too, which despite our sanitary superiority we lack. No doubt we are all more hygienic and respectable, at least as regards the outside of the cup and platter ; but the glamour of that companionable and crowded life is gone. The jolly clubs, the cosy taverns, the prevailing oyster cellars, are replaced by mighty restaurants wherein the gilt doth much exceed the gingerbread, and homely comfort, smothered in purple and fine linen, sumptuously dies. For the shrine of St. Cecilia in the Wynd and the old Assembly Rooms in the West Bow, we have municipal music halls and sundry dancing palaces. Everything is larger, louder, more extravagant ; yet is the return in happiness proportionally increased ? Dirt and dinginess are fled before vacuum cleaner and electric light, but the *camaraderie*, the friendliness and familiarity of a place where everyone knows everybody, that also has been improved away. And the folk themselves ! I am, of course, aware how much wiser,

better looking, and more virtuous we are than our forebears; alas, the trouble is that we are all equally so, and that the characters, queer original beings, each marked with individual traits, who of old might be seen at kirk and market—the Braxfields, the Brodies, the Fergussons—have vanished for ever from our midst. If such an one should venture to revisit these ancient and accustomed haunts he would be pounced on by the Professor of Psychiatry and incontinently clapped in an asylum. Well, we may not be so mad now, but we are certainly less merry and amusing.

From the many attaching and eccentric figures that played their part in the drama of the old city's daily life I propose to choose one to whose manifold merits, in my judgment, we Modern Athenians have done scant justice. Peter Williamson, kidnapped as a boy for the Plantations, who was long held captive by Red Indians, escaped, published his experiences, and returning to his native land, kept a tavern in the Parliament House of Edinburgh, established a penny-post in the capital, and printed her first street directory, is surely deserving of a niche in the metropolitan Valhalla. Not that I suggest a statue; no, we are possessed of graven images enough, and have unconscionably broken the second Commandment—though it might be urged in exculpation that some of these bear little likeness to anything that is in heaven above or in the earth beneath. The references to our hero by historians of Edinburgh are casual and fragmentary, the only notice of any worth is that which accompanies his portrait in the gallery of John Kay;[1] so I mean to do what I can to rescue his renown from beneath the poppies blindly scattered by the iniquity of Oblivion.[2]

[1] *Original Portraits and Caricature Etchings*, by John Kay. Vol. i. part i. pp. 128–139, Edinburgh, 1842.

[2] Peter, however, I am pleased to note, has found his way into the *Dictionary of National Biography*, xxi. 478–479, Ed. 1909. He is also enshrined in *Wonderful Characters: comprising Memoirs and Anecdotes of the most Remarkable Persons of Every Age and Nation*, by Henry Wilson, ii. 431–449, London, 1821; and

Of the autobiography of "Indian Peter," victim and vintner, author, printer, publisher, and postmaster, there are divers editions. The earliest that I have seen is entitled: *French and Indian Cruelty; Exemplified in the Life and various Vicissitudes of Fortune of Peter Williamson, a disbanded Soldier . . . Written by Himself.* (*The Second Edition, with Corrections and Amendments.*) *York: Printed and Sold by J. Jackson in Peter-gate, and by all the Booksellers in Town,* 1758. *Price One Shilling.* The third edition, "with considerable improvements," was published in Glasgow the same year, "Printed by J. Bryce and D. Paterson, for the benefit of the unfortunate Author." A new edition appeared at Edinburgh in 1787, "Printed for and Sold by J. Stewart, Bookseller, Lawn-market," to which was added "An Account of the Proceedings of the Magistrates of Aberdeen against him [Peter] on his Return to Scotland; a brief History of his Process against them before the Court of Session; and a Short Dissertation on Kidnapping." It was further embellished with a copperplate engraving of the author, "in the Dress of a Delaware Indian." This edition was reprinted at Edinburgh in 1812, as *The Life and Curious Adventures of Peter Williamson,* "by John Orphoot, Blackfriars Wynd, for W. Coke, Bookseller, Leith, price one shilling and sixpence," with the same frontispiece, but from a very tired plate. These are my chief authorities; of the other Petrine literature, personal and professional, there will be more to say later.

I don't know whether our author was acquainted with the writings of Defoe, but his genius is of a similar cast and his narrative style reminiscent of the famous biographer of Colonel Jack. After complaining, with reference to the purpose of his publication, that "the major Part of Mankind will give much more to a Bookseller to be in the Fashion, or satisfy their Curiosity, in having or reading a

Biographia Curiosa: or Memoirs of Remarkable Characters of the Reign of George the Third, pp. 27–32, London, 1822.

Peter Williamson,

Remarkable for his Captivity and Sufferings.

(From an engraving by R. Cooper.)

new puff'd-off History or Novel, than to a real Object of Distress for an accurate and faithful Account of a Series of Misfortunes," he thus unfolds the story of his woes :—

Know, therefore, that I was born within ten Miles of the Town of Aberdeen,[1] in the North of Scotland; if not of rich, yet of reputable Parents, who supported me in the best Manner they could, as long as they had the happiness of having me under their Inspection; but fatally for me and to their great Grief as it afterwards proved, I was sent to live with an Aunt at Aberdeen, where, at eight years of age, playing on the Key with others of my Companions, being of a stout robust Constitution I was taken Notice of by two Fellows belonging to a Vessel in the Harbour, employed (as the Trade then was) by some of the worthy Merchants of the Town, in that villainous and execrable Practice call'd Kidnapping; that is stealing young Children from their Parents and selling them as Slaves in the Plantations abroad. Being mark'd out by those Monsters of Impiety as their Prey, I was easily cajoled on board the Ship by them, where I was no sooner got than they conducted me between the Decks to some others they had kidnapped in the same manner. At that Time I had no Sense of the Fate that was destin'd for me, and spent the Time in childish Amusements with my fellow-Sufferers in the Steerage, being never suffer'd to go upon Deck whilst the Vessel lay in the Harbour, which was till such a Time as they had got in their Loading with a Complement of unhappy Youths for carrying on their wicked Commerce.[2]

Her tale of innocents complete, the ship set sail for America. After an eleven weeks' passage, "to the Captain's great Surprise (he not thinking he was near Land)," she struck a sandbank off Cape May, and "to the great Terror and Affright of the Ship's Company, in a small Time was almost full of Water." The captain and crew, taking to the boats, reached the shore in safety, leaving their living cargo to its fate. "The Cries, the Shrieks and Tears of a Parcel of Infants had no Effect on, or caus'd the least Remorse in the Breasts of these merciless Wretches." In this situation the unhappy boys continued till next morning, when the gale having abated and the ship still holding together, the conscientious mariners returned and took them ashore. After three weeks' privations the

[1] At the village of Hirnley, in the parish of Aboyne.

[2] *Life*, 1758, p. 3. Subsequent citations refer to this edition.

party was rescued by a passing vessel bound for Philadelphia, where the captain profitably disposed of his "villainous Loading" for £16 a head.

Whatever the lot of the others, Peter at least fell on his feet, being purchased by a benevolent brother Scot, one Hugh Wilson, who having himself been kidnapped in his youth, had a fellow-feeling for the misfortunes of his young compatriot. He treated his "slave" with much kindness, sent him to school, and dying when the lad was seventeen, left him £120, a horse, and his entire wardrobe. So Peter resolved to set up for himself, and prospering in his way of life, espoused the daughter of a substantial planter, who gave the young couple a tract of land near the Forks of Delaware in Berks County, extending to some 200 acres, with a good house and barn. To the peaceable possession of this property there was but one drawback: its proximity to the frontiers of Pennsylvania, where the Indians in the French interest were beginning to trouble the British settlers. On the night of 2nd October 1754 Peter was sitting up for his wife, who was visiting her relations in the neighbourhood.

> None being in the House besides myself, how great was my Surprise, Terror, and Affright when about 11 o'clock I heard the dismal War-cry or War-whoop of the Savages, which they make on such Occasions, and may be express'd, *Woach, woach, ha, ha, hach, woach*; and to my inexpressible Grief soon found my House was attack'd by them. I flew to the Chamber window, and perceived them to be twelve in number.[1]

Peter, with loaded gun, was preparing to defend his home, when one of the assailants, who had a little English, intimated that if he made any resistance he would be burnt alive in the house, but if he yielded himself prisoner his life would be spared. So with no great confidence in their good faith he surrendered at discretion. Rushing upon him "like so many Tygers," they disarmed him, bound him to a tree, and proceeded to plunder the homestead, to which they set fire, "200 Bushels of Wheat, six Cows,

[1] *Life*, p. 11.

four Horses, and five Sheep being all entirely consumed to Ashes." Threatened with instant death by a tomahawk unless he agreed to accompany his new masters, Peter was in no condition to refuse; his bonds were loosed, he was laden with the spoils of his own household, and the party set forth upon their way.

The subject of a joke is usually the last to see it, so we need not be surprised to find that the playful humour exhibited by his captors failed in appeal to Peter. When they halted for the night a fire was kindled near a tree to which he was bound.

> The Fire being thus made, they for some Time danced round me after their Manner, with various odd Motions and antic Gestures, whooping, hollowing, and crying in a frightful Manner, as it is their Custom. Having satisfied themselves in this Sort of their Mirth, they proceeded in a more tragical Manner, taking the burning Coals, and Sticks flaming with Fire at the Ends, holding them to my Face, Head, Hands, and Feet, with a deal of monstrous Pleasure and Satisfaction. . . . How I underwent these Tortures I have here faintly described has been Matter of Wonder to me many Times; but God enabl'd me to wait with more than common Patience a Deliverance I daily pray'd for.[1]

Following for some six miles the course of the Susquehannah river the Indians hid their plunder in the Blue Hills. They then attacked a neighbouring farm and after scalping the farmer, his wife, and four children, set fire to the buildings and destroyed the stock. From this general massacre a young man employed on the farm was excepted for the purpose of sharing with Peter the burden of the spoil. The lad, proving unequal to the labour, was promptly tomahawked and scalped, and Peter had to bear as best he could the double load. In the next house they came to lived an old man, with a wife and four children. These were scalped in sight of the aged settler, who was himself preserved for the more leisurely amusements of the savages, and his house and cattle were given to the flames. Pursuing their journey towards the Great

[1] *Life*, p. 14.

Swamp the Indians were joined by another band, with twenty scalps and three prisoners, the surviving representatives of such families as they had surprised and slain. From these unfortunates Peter received shocking accounts of the murders and devastations committed in their parts. Two of them contrived to escape but were soon retaken; their last state was worse than their first.

> The poor Creatures, almost famished for want of Sustenance, having had none during the Time of their Elopement, were no sooner in the Clutches of the Barbarians [than] two of them were tied to a Tree and a great Fire made round them, where they remained till they were terrible scorch'd and burnt; when one of the Villains with his scalping Knife ript open their Bellies, took out their Entrails, and burnt them before their Eyes, whilst the others were piercing and tearing the Flesh from their Breasts, Hands, Arms, and Legs with red-hot Irons till they were dead. The third unhappy Victim was reserved a few Hours longer to be if possible sacrificed in a more cruel Manner; his Arms were tied close to his Body and a Hole being dug deep enough for him to stand upright, he was put therein and Earth ram'd and beat in all round his Body up to his Neck, so that his Head only appear'd above Ground; they then scalped him. . . .[1]

But enough of these horrors. Peter's task was to dig the graves of the other prisoners, which, feeble and terrified as he was, the dread of suffering the same fate enabled him to do.

"A great Snow now falling, the Barbarians were a little fearful lest the white People should by their Traces find out their skulking Retreats, which obliged them to make the best of their Way to their Winter Quarters, about 200 Miles farther from any Plantations or Inhabitants; where after a long and tedious Journey, being almost starved, I arrived with this infernal Crew." Of the headquarters of the tribe and the manner of life there Peter gives many curious details, of which the most interesting relates to their practice of eliminating such senior members of the body politic as had outlived their communal usefulness, a custom reminding one of Middleton's excellent comedy,

[1] *Life*, p. 22.

The Old Law. So soon as the snow was gone the Indians prepared for a new expedition against the English planters, and augmented by another party, " well stor'd with Powder and Ball they had receiv'd of the French," they set out, some 150 strong, for the Blue Hills. There a council of war was held ; the band, divided into companies of twenty, marched off to execute their prospective butcheries, and Peter with ten Indians remained in the mountains, as it was judged better not to take him any nearer his own people.

He knew the country well, having often hunted there in happier times, so he began to meditate an escape. One night when his keepers, having supped sparingly on two polecats which with difficulty they had stalked, were fast asleep, " being greatly fatigued with their Day's Excursion," Peter perceived his opportunity. He was minded to secure one of their guns, but as they slept with these beneath their heads he had to flee unarmed. Before he had got far from the camp he was horrified to hear " the Wood-cry, as 'tis call'd, and may be expressed, *Jo-hau ! Jo-hau !* " announcing that his defection was discovered. " The bellowing of Lyons, the Shrieks of Hyænas, or the roaring of Tygers, would have been Music to my Ears in Comparison to the Sounds that then saluted them." Fear lent him wings and he continued his flight till day-break, when he ensconced himself in a hollow tree. He was awakened by the voices of his pursuers, breathing threats of vengeance ; but they passed by without detecting their quarry, who remained all day in his " circular Asylum " without further disturbance. For four nights he pushed on through the woods, avoiding the beaten tracks, and hiding as best he could by day. Once he well nigh walked into a party of Indians, lying round their fire. At the sound of his approach they started up, but providentially " a Parcel of Swine " ran past Peter towards them, and the savages, " conjecturing that their Alarm had been occasion'd by the Hogs," resumed their inter-

rupted slumbers. Next day to his intense relief he could spy from the summit of a great hill the habitations of his people, and that afternoon was knocking at the door of one John Bell, an old acquaintance. Mrs. Bell responded, but seeing Peter in Indian garb and looking none the better for his adventures, "flew from him like Lightning, screaming into the House." Presently, however, having unfolded himself, he was warmly welcomed by the family. After recruiting his strength for a time with these good folk, he borrowed a horse and set out on a hundred and forty miles' ride to his father-in-law's estate in Chester County, where he arrived in safety on 4th January 1755, to the wonder and satisfaction of his relatives who had long given him up for lost. From them he learned of the recent death of his wife, which "greatly lessen'd the Joy and Rapture he otherwise felt at his Deliverance."

The news of his escape spread quickly among the planters; Peter became a popular hero, was interviewed by the Governor of the Province; examined before the State Assembly, then concerting measures to check the depredations of the Indians; and his tale, reduced to writing and sworn to by the teller, was printed "in the public Papers of that Time, as well in England as in Philadelphia." Gladly accepting the opportunity of revenging himself on "the hellish Authors of his Ruin," Peter enlisted for three years in a regiment raised to fight against the French and their savage allies. His first engagement was in April 1756, when he took part in a successful expedition against a tribe that had murdered a well-known settler and his family, and carried off his daughter. The damsel was found "in the open Woods, embracing with her Alabaster Arms a cold rough Tree, whereto she was bound with Cords so straitly that the Blood trickled from her Fingers' Ends." Happily she had sustained no further damage, and "it pleased the Almighty to permit us to rescue her, and entirely extirpate this Crew of Devils."

Wounded and taken prisoner at the siege of Oswego, of which he gives a particular account that would have vastly intrigued Uncle Toby, after the capitulation of the garrison to Montcalm on 14th August 1756, Peter and his company were kept in prison at Quebec till they were sent to England in a French ship for exchange as prisoners of war. After a six weeks' passage they reached Plymouth on 6th November. The men were ordered to be drafted into other regiments, but Peter, owing to his wound, was discharged as unfit for further duty. No pension or provision was made for him, and his sole reward for all his sufferings and service was "the Sum of Six Shillings paid, to carry me to Aberdeen, about eight Hundred Miles only from the Place whereat I was Discharg'd."[1]

On these inadequate resources our hero contrived to get as far as York, where he found himself stranded with nothing in his pockets but the manuscript account of his adventures. Certain honourable gentlemen of the place to whom he showed it thought well of the work, and subscribed to the printing of the MS. for the author's benefit. The profits from the sale of copies through the shire in due time enabled him to resume his journey north, and in June 1758 he returned to his native city.[2] Instead of the kindly welcome he had looked for there, Peter might have believed himself back among his old enemies in the Blue Hills, for no sooner did he begin to offer for sale his autobiography than by warrant of the magistrates he was seized by the town officers and haled before "that tremendous Court of Judicature" on the following charge:—

That I had been guilty of causing print, and of publishing and dispersing this scurrilous and infamous libel, reflecting greatly upon the

[1] Here endeth the first edition; Peter's subsequent adventures are described in that of 1787, to which further citations refer.

[2] At York, in three weeks he sold 1000 copies; at Newcastle, in a fortnight, 650: his profit on a thousand copies amounted to £30.—Answers for Peter Williamson, *infra*.

characters and reputations of the merchants in Aberdeen and on the town in general, without any ground or reason; whereby the corporation of the city and whole members thereof were greatly hurt and prejudged; and that therefore I ought to be exemplary punished in my person and goods, and the said book and whole copies thereof ought to be seized and publickly burnt.[1]

Upon this, their own complaint, the magistrates "appointed him to find caution to stand trial at any time when called for, and imprisoned him till performance; and ordered all copies of his book to be lodged in the clerk's chamber." The books were duly impounded and the author was locked up, until bail was found for him by his landlord. When his case came on the local Solons ordained that the calumnious pages be cut out and burnt at the Cross by the common hangman, that the prisoner should make written apology for his offence, be incarcerated in the Tolbooth till he did so, pay a fine of ten shillings sterling, and thereafter be banished the town. This sentence was executed forthwith and in the most rigorous manner. Though they left him his scalp, the methods of the guardians of the Granite City were spiritually akin to those obtaining in the Blue Hills. They were, as their victim points out, at once accusers, witnesses, and condemners in their own cause.

Thus despoiled and outcast, Peter set forth for Edinburgh to invoke against his persecutors the thunderbolts of justice. "A Gentleman versant in the Law," whom he consulted there, horrified at the flagrant injuries inflicted on him, warmly espoused his cause; by whose advice and interest Peter was supported "from the infancy to the conclusion of the Process." Presently in the Court of Session an action of damages was raised at his instance against Alexander Cushnie and others, magistrates of Aberdeen; these worthies lodged defences, and the foundations of a "gude gangin' plea" were well and truly laid. The Lord Ordinary having allowed a proof before

[1] *Life*, p. 105.

answer, evidence was taken on commission at Aberdeen; so in September 1760 Peter went back to that inhospitable burgh to attend to his interests there.

The depositions of the witnesses, as printed by Peter,[1] present so strange a picture of the social manners of the day that I must later deal with them in some detail; so far as regards the progress of his suit, despite every obstacle that the malice of his adversaries could devise, he was able to adduce such a body of evidence as fully satisfied the Court of the justice of his plea. Their Lordships, by interlocutor of 2nd February 1762, found the libel relevant and proven; and also found the defenders personally liable to the pursuer in £100 sterling of damages, together with the expenses of the process. Against this judgment the magistrates reclaimed by petition,[2] craving that the damages be modified as excessive, answers to which were duly lodged by Peter.[3] The Lords, after reconsidering the merits of the cause, adhered to their former decision.[4] "It is the peculiar happiness of this land of liberty," remarks the successful litigant, "to be blessed with a Supreme Court wherein justice is dispensed with an equal hand to the poor and rich; wherein the cause of the King and the Beggar is weighed in the balance of equity and law, and decided in favour of him whose scale preponderates." If Peter be right in his dates the blessings bestowed on Scotland by her supreme tribunal did not at that period include despatch of business, for these proceedings occupied two years!

It would appear from a letter written by the Bailies of Aberdeen to Walter Scott, Writer to the Signet, Edinburgh, that Sir Walter's father acted as agent for the

[1] *Life*, pp. 109–133.

[2] Reclaiming Petition, Alexander Cushnie and Others, Magistrates of Aberdeen, 11th February 1762.—Session Papers, Signet Library, vol. xxiv. No. 10.

[3] Answers for *Poor* Peter Williamson, 2nd March 1762.—*Ibid.*

[4] The magistrates, however, characteristically evaded the decree of the Court, and paid no part of these sums from their own pockets.—Kennedy's *Annals*, i. 296.

defenders. This letter is annexed to the petition, which is signed as counsel for the magistrates by Francis Gardenstone, who afterwards became a judge. A further "link" with Scott is afforded by the fact that although, like his more famous namesake Peter Peebles, our hero sued *in forma pauperis*, he was represented by no less an advocate than Andrew Crosbie, one of the leaders of the Scots bar and the prototype of Mr. Counsellor Pleydell.

The defenders alleged that Peter on his return to Scotland "had the appearance of being an idle stroller, and could give no good account of himself; and had procured this pamphlet to be composed for him of such shocking circumstances, in order the more easily to impose upon, and draw money from the credulous vulgar." That Peter was no Munchausen or de Rougemont is plain from the proof. Many witnesses remembered him as a boy and the circumstances of his disappearance. "It was the voice of the country that when the pursuer was a little boy, going with a clipped head, he was taken at Aberdeen and carried to Philadelphia along with several other boys." His father, hearing that his son was held captive in a barn, tried hard to get at him, "but they would not let him speak to him," and he "shed many salt tears on that account." Peter is described as then "upwards of twelve years of age, a rough, ragged, humle-headed, long, stowie, clever boy (by which is meant a growthie boy)," and again, as "a stout, clever, rough lown, and very ill to guide"—qualities which to the confusion of his enemies he retained in later life. Family friends had no difficulty in recognising in the robust pursuer the "growthie boy" of their recollection. John Wilson, who had assisted at his baptism, swore he was that identical Christian; Helen Law, employed by the several merchants named "to furnish diet to the boys," at the modest board of "twenty pence a week for each," during their imprisonment pending exportation, remembered him as having been so "dieted" under the name of "Peter M'William"; and James

Robertson, "keeper" of the boys, deponed "that Peter Williamson, whom he sees presently before him, is the same person that was then named Peter M'William." It was proved by other witnesses that Peter and his companions were put aboard the ship *Planter*, Robert Ragg master, in 1743, and that the vessel was lost off Cape May on that voyage; and one man, lately returned from Virginia, was satisfied by "the just and true account of several persons and places there" which Peter gave to him, that his tale was true. But all doubts were dispelled on production by Walter Cochrane, town-clerk depute of Aberdeen, of an account due by Bailie William Fordyce & Co. to James Smith, who acted as paymaster for those merchant adventurers, which account, showing disbursements for the half year to May 1743 amounting to £160, 18s. 9d., included the following items:—"Jan. 8, 1743. To a pair of stockings to Peter Williamson, 6d.; To a woollen cap to ditto, 5d.; 13th. To five days of diet, 1/3d." ending with the significant entry, "To the man that brought Williamson, 1/6d." [1]

Aberdeen is called the Granite City, whether from the material of which her buildings are composed or because of the hardness of her inhabitants it were perhaps invidious to enquire. Suffice it that her good folk are famed in story for the quality of thrift, and that purists have even held them to push something too far the practice of that virtue. But however it may be nowadays, there is no question that in our hero's time her merchants were largely engaged in what they euphemistically termed "the indenting of servants for America," or in Peter's plainer phrase, "Kidnapping, a species of trade followed by these monsters of impiety for the lust of gain." From the depositions of the witnesses it appears that between 1740 and 1746 this nefarious traffic flourished openly in Aber-

[1] *Life*, pp. 131–132; "Kidnapping—Peter Williamson's Case," *Blackwood's Magazine*, May 1848.

deen, magistrates, town officers, and leading merchants being engaged in its conduct.

Every art of deceit and seduction was employed; agents, drummers, pipers, and recruiting sergeants were dispersed throughout the town and shire to assail the unwary with bribes, alluring promises, intoxication, and still more disgraceful temptations. Parties of men patrolled the streets of the burgh like press-gangs, and by open violence seized on such boys as seemed fit for their purpose. The inhabitants of the neighbourhood dared not send their children into the town, and even trembled lest they should be snatched away from their homes. For in all parts of the country emissaries were abroad; in the dead of the night children were taken by force from the beds where they slept; and the remote valleys of the Highlands, fifty miles distant from the city, were infested by ruffians who hunted their prey as beasts of the chase. . . . Once in the possession of their oppressors they were driven in flocks through the town, like herds of sheep, under the care of a keeper armed with a whip; or they were shut up in a barn in the Green, where a piper was hired to play to them, while they were freely supplied with cards in order to divert their thoughts from any attempt to escape. Nay, so unblushingly was this infamous commerce practised that when other receptacles overflowed, the public Workhouse was used as a place of incarceration; and when this too failed, the Tolbooth or common prison was appropriated, and numbers of individuals were detained in it for weeks together.[1]

There is something Gilbertian about these magistrates, who used their Tolbooth as a receptacle for stolen children, repelled officially the parents' application for redress, and solemnly condemned Peter as a calumniator of their fair fame. At so low an ebb was morality at Aberdeen that we find from the account before mentioned men even traded in their own flesh and blood: "To Robert Ross, for listing his son, one shilling"; "To Maclean, for listing his brother Donald, one shilling and sixpence," etc—surely supreme examples of avarice that must have excited envy in hell.[2]

[1] Lest it be thought that Peter's personal grievances had coloured his narrative of these events, I have taken this account from an Aberdeen authority, who quotes for his every statement chapter and verse from the printed records of Williamson's case, to which he had access.—*The Book of Bon-Accord*, i. 87–88, Aberdeen: 1839.

[2] The account includes such further unedifying entries as, "To the boys to

It is estimated that during the six years referred to not less than six hundred victims were thus exported.

They were sold to planters for a term of years, varying from five to seven. During this period of slavery they were treated with harshness and cruelty; they were whipped at the pleasure of their masters; if they deserted for thirty days, twelve months were added to their slavery. In a word, such was their wretchedness, says one who was an eye-witness to their sufferings, that they were often forced to desperate measures, and to make away with themselves.[1]

Apart from a general view of these remarkable transactions, I have space for but a single instance, which throws a curious light on the business methods employed. William Jamieson, Old Meldrum, deponed that his son, aged eleven, was seduced from that village by an emissary of John Burnet, merchant in Aberdeen, "commonly called Bonny John"—not, as appears, from the beauty of his moral character. To this person the father applied, "who told him he had several boys, but did not know whether the deponent's son was amongst them; but said that though he was, the deponent would not get him back, because he was engaged with him [Burnet]"! Jamieson went down to the shore, "where he had been informed the boys were out getting the air." He found some sixty of them "diverting themselves," in charge of a keeper armed with a horsewhip. He called to his son to come home with him, whereupon "Mr. Burnet's overseer came up and gave the boy a lash with his whip," drove him off with the others, locked them up in a barn, and pocketed the key. Advised that it would be vain to appeal to the local authorities, "because some of the magistrates had a hand in those doings," the bereaved father went to Edinburgh and consulted a writer, "who gave him a libelled summons against the said John Burnet, before the Lords

play at cards, 1|-"; "To the boys to drink, when put in the workhouse, 1|-"; "To six packs of cards to them, 9d."; and the enigmatic item, "To Colonel Horsie for his concubine, £1."

[1] *The Book of Bon-Accord*, i. 90.

of Council and Session, for restitution of the deponent's son." But such was the prestige of "Bonny John" that no messenger-at-arms in Aberdeen would serve the summons! Jamieson insisting in his action, the Earl of Aberdeen intervened, and sent for him "to the house of Haddo, where the Earl and John Burnet were at that time." At this meeting it was arranged that Burnet should grant a bond, under penalty of £50 sterling, to restore within a twelvemonth the abducted boy, who meantime had been shipped to Maryland. But Jamieson got neither bond nor boy, for Lord Aberdeen died soon after, "Bonny John" became bankrupt and left the country, and the poor fellow never heard of his son again.[1] Had Stevenson placed the house of Shaws on the north side of the Queen's Ferry, Mr. Ebenezer Balfour might have found in "Bonny John" an agent even more capable than Captain Hoseason.

The proceedings in *Williamson* v. *Cushnie and Others* having disclosed the real authors of the original outrage on Peter, our hero instituted an action of damages against the wicked Bailie and his copartners in crime. The case of *Williamson* v. *Fordyce and Others* is not dealt with in the *Life*, but an account of it, from the printed record, is given in the article before cited.[2] Why the affair did not form the ground of a criminal prosecution for *plagium*, or child stealing, is a mystery. Peter estimated his injuries at £2000. The crafty Bailie having persuaded him to submit his claim to arbitration rather than face the cost of a Court of Session process, the matter was referred to the decision of Mr. James Forbes of Shiels, the learned Sheriff-Substitute of Aberdeenshire. This gentleman, who was of convivial, not to say crapulent habits, had recently lost his mother, and was just recovering from "a hearty dose at her burial." The amiable weakness of the arbiter afforded parties an opportunity to secure by the exercise of a discreet hospitality, judicial favour. The

[1] Deposition of William Jamieson, *Life*, pp. 118–120.

[2] *Blackwood's Magazine*, May 1848.

proceedings opened in a tavern with the Sheriff "busy at hot punch about 11 o'clock forenoon." The first round was won by Peter and his friends, who carried off his Lordship to dinner at the New Inn, where they "sat close drinking, as is the phrase in that part of the country: *Helter-Skelter* —that is, copiously and alternately of different liquors— till 11 o'clock at night," when the judge president, now incapable of office, was conveyed home by his two maid-servants, "with the assistance of the pursuer." Next morning the Bailie and his allies took the field betimes; by a *coup de main* the Sheriff was seized in his bed and carried to a *howff* kept by one Campbell, where "a large dose of spirits, white wine, and punch was administered to him, with cooling draughts of porter from time to time": the reference expired next day, so the defenders' motto was spend and spare not. After dinner the party "sat down to Ombre, drinking at the same time, *Helter-Skelter*, a bottle and a half of Malaga, a mug of porter, two bottles of claret, and a mutchkin and a half of rum made into punch." Meanwhile the pursuer, who had vainly sought the ravished lawgiver "in all the taverns in town," having at length discovered his place of retreat, was denied access to this extra-judicial sederunt. At eventide after "a roaring day," his Lordship, who at first had inclined to the pursuer's interest, being touched, in the fullest sense, by the defenders' treatment, pronounced a Decreet-Arbitral in their favour, and "very merry and jocose," was taken home to bed, where, it is recorded, he slept all the next day, "being Sunday." We need not be surprised to learn that soon afterwards the slumbers of this egregious functionary were of a permanent sort, beyond breaking by mortal bailie. It is not often that the findings of an arbiter are subjected to review, but these singular proceedings having been in due course brought to the notice of the Court of Session, their Lordships on 3rd December 1768 recalled the Sheriff's judgment and awarded the pursuer £200 damages, together with one hundred guineas

of modified expenses. Thus, well nigh thirty years after the event, was Peter at length avenged upon his enemies.

Having now disposed of this protracted battle, let us see how Peter had been redeeming the time not engrossed by litigation. The fact that he had pitched his tent—wigwam might be preferred by purists—in Edinburgh, was announced to the public in an advertisement of portentous size, from which I extract the following breathless paragraphs :—

> Lately arrived from North America and lodges at Mrs. John Mitchells in the uppermost entry James Court Edinburgh Peter Williamson who was taken from his home in the back settlement of Pensylvania by a party of Indians who carried him to their town where he resided a considerable time, and afterwards attended them in several of their excursions before he had an opportunity of making his escape. By residing so long among them he has acquired a particular knowledge of their customs, manners, and dress ; and as he brought over with him a compleat dress, he has already exhibited to the publick with a general satisfaction.

After giving particulars of his published *Life*—"Those gentlemen, etc., that buy the book may see his performance gratis"—Peter proceeds :—

> The unhappy sufferer who is reduced by his misfortunes, has been advised to take this method to raise a little money to carry him back to America. He would therefore humbly hope for the encouragement of the publick, which though he cannot pretend to deserve yet he will gratefully acknowledge. He is to be seen at his lodging above mentioned from five till nine at night, and as the going through the different ceremonies and manners of the savages is very laborious, he would humbly beg that as many as possible would attend at a time ; as he cannot propose to exhibit unless six at least be present. As he intends to leave the town the latter end of next week he hopes those who intend to favour him with their company will do so betwixt and that time.[1]

It does not appear that Peter had the least intention of returning to America ; the advertisement was framed with an eye to "the credulous vulgar." "For several years after Williamson's return to England," writes

[1] *Edinburgh Evening Courant*, 7th October 1758.

Constable, the prince of publishers, "he used to exhibit himself in the dress of an American Indian, performing the war-whoop, etc., and by this, I believe, he obtained a very good livelihood. I have seen a wooden figure with all his dress and paraphernalia, which, as I have been told, used to stand as the sign-post of his exhibition. It was preserved, till within the last twenty years, in a garden at Canonmills."[1] He is said to have exhibited in London in 1760 and 1761.[2]

Man cannot live by war-whoops alone; so Peter, perhaps influenced by the thirst-inducing tendency of that pursuit, decided to commence vintner. Chambers, in his account of the shops by which of old the Parliament Close was environed, thus describes the Petrine premises:—

> Adjacent to George Heriot's shop, and contiguous to the Laigh Council-house, there was a tavern, in which a good deal of small legal business used to be transacted in bygone times. The famous Peter Williamson, who designed himself "from the other world," kept this house for a long time. It acted also as a sort of vestry to the Tolbooth Church; and was the place where the Magistrates took what was called the *Deid-Chack*, a refreshment or dinner of which those dignitaries always partook after having attended an execution.[3]

But possibly because he had acquired by his experiences a liking for the law, Peter, not content thus to deal hard by the temple of Themis, opened a stall within those sacred courts, and tempered with his stock-in-trade the very wells of justice. The Parliament Hall was then divided midway by a screen, and in the northern part or Outer House divers small mercantile concerns throve peacefully, unharmed by the near thunders of the Fifteen. Two booksellers', a hardware merchant's, and a hatmaker's stalls kept company with "Indian Peter's coffee-room," which, as we learn from Chambers, was divided into three or four tiny compartments, one within another, the partitions being made of the slimmest materials, some of them even

[1] *Archibald Constable and his Literary Correspondents*, i. 538–539.

[2] Wilson's *Wonderful Characters*, ii. 449.

[3] *Traditions of Edinburgh*, ii. 211–212, Edinburgh: 1825.

of brown paper.[1] This flimsy and incongruous bower, immortalized by Robert Fergusson, was the *howff* of all the legal worthies of the day. "The deathless boy" himself, alas, spent but too much of his brief time there, and often must the frail partitions have vibrated to that young voice, reciting for enthusiastic cronies the last-begotten fancy of his muse.

But, as the poet tells us in his inimitable verse, Peter was not dependent solely upon his pot-house: in the fire of circumstance he had other irons. He followed up the successful issue of his *Life* by publishing *Some Considerations on the present State of Affairs, wherein the defenceless Situation of Great-Britain is pointed out, and an easy rational and just Scheme for its Security at this dangerous Crisis proposed, in a Militia . . . York: Printed for the Author, and Sold by all the Booksellers in Town*, 1758. Ten years later appeared *The Travels of Peter Williamson among the different Nations and Tribes of Savage Indians in America . . . In Three Parts. Written by Himself. Edinburgh: Printed for the Author, and sold by him at his Coffee-room within the Parliament-house, and by R. Fleming, Bookseller at the Cross, and by other Booksellers in Great-Britain and Ireland, who commission them*, 1768. *Price, sewed*, 2*s.*; *bound*, 2*s.* 6*d.*[2] This curious and comprehensive volume is thus divided: (1) "Travels among the Indians in America," (2) "A Concise View of the Whole World," and (3) "Some General Observations on Submissions and Decreets-Arbitral"—surely marvellous value for the money. Part III., inspired by his own experience of arbitration, has for motto:

> To shun debates at law do what you can,
> But don't *submit* till first you know your man!

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[1] "These *crames* or boxes seem to have been established at an early period, the idea being no doubt taken from the former conditions of Westminster Hall."—*Reekiana: Minor Antiquities of Edinburgh*, pp. 188–189, Edinburgh: 1833.

[2] A list of Peter's other works will be found in the article in the *Dictionary of National Biography* before cited.

which doubtless was chosen with a lively recollection of the too-festive Sheriff-Substitute. Part I. includes an engraving of "Williamson's New Machine for Reaping of Corns," together with a description of that ingenious instrument, which is not, as might appear, a toilet requisite, but the agricultural contrivance known later as a basket scythe.

As I have yet a few of these machines unsold [says the inventor], gentlemen may be furnished with them by applying to me at my house in the westermost entry to the Parliament-close, Edinburgh, where their orders will be thankfully received and punctually observed by their most obedient and most humble servant, P. Williamson.[1]

A palmary example, this, of Peter's ability to "fell twa dogs wi' ae bane." In 1769 he added yet another string to his bow by setting up in business as a printer. To the Printers of Edinburgh he dedicates in a fine vein of irony the maiden product of his press : [2]

GENTLEMEN,—The many amiable qualities you are possest of is the only motive that induces me to lay my first performance in the Printing way under your patronage ; not doubting but your goodness will extend to my edification as well as my profit : otherwise I would not have assumed the character of being a Member in so respectable a Society as you are. . . . It is true I was not bred a Printer ; but upon trial you will find me as alert a scholar and as forward to learn the business as any in your profession. When I brought down my portable Printing Presses from London I applied to some of your geniuses for instruction ; but I found you like the priest who could not pray out of his own pulpit. From your backwardness to assist me I was obliged to set my own inventions to work, which a learned lawyer tells me is mighty good ; and thus I soon acquired the mystery of Printing, to the amaze and astonishment of you all. I find, however, that I cannot be so much benefited by learning the mechanical part of Printing as by that mysterious part of the business you have lately discovered, of increasing your News-papers to an enormous size, and yet, as by the art of Leger-de-main, to make them contain less matter than they did before. One of the most valuable branches of the trade is to keep the Public as ignorant of the art as possible. . . . It is

[1] *Travels*, p. 112.

[2] *Mob contra Mob or the Rabblers Rabbled . . . Parliament-House : Printed by Peter Williamson in one of his New Portable Printing-Presses. MDCCLXIX.* (*Price six pence.*)

not our business to discover our own secrets, nor stand by a word that will hurt us. For my part I was born in Aberdeenshire, where it is thought a crime to be honest; and I think such precepts the best lesson a Printer can get.

Other books which I have seen bearing his imprint are: *The History of the Misfortunes of John Calas*, by Voltaire, 1776, and *A Letter to the Right Honourable Lord North*, 1780.

The most notable achievement of Williamson in this connection was the printing and publishing of the first Edinburgh Directory in 1773, a year memorable in the annals of Auld Reikie as well for the appearance of that work as for the publication by Ruddiman of the poems of Robert Fergusson. The rare little volume was reprinted in exact facsimile by the late William Brown (Edinburgh: 1889), with a prefatory note giving an interesting account of its history. So successful had the printing venture proved that we find the publisher informing "his friends and well-wishers that he has entirely left off the business of a vintner," and for the future will devote himself to printing. Thenceforward, with a single exception, for more than twenty years Peter continued to put forth his annual leaves. To the last edition published in his lifetime, that for 1795–6, he appended the following humorous note:—

P. Williamson except in *one* instance has been the unrivaled Publisher of the Edinburgh Directory for upwards of twenty years, but in summer 1793 owing to different circumstances it was inconvenient for him to attend to the publishing of that year's Directory; he therefore gave his Manuscripts and Alphabetical arrangements to one Aitchieson, a Shoemaker (said to be fond of a *Rook*), who bargained to give P. W. 200 copies of the Directory for his expence and labor, the same being published "by his permission." When the Directory was published, however, Mr. Aitchieson was not satisfied with a *pegging* at the profits but he was resolved to have *awl*, and accordingly he refused to give P. W. a single copy. This brought on a *strapping* match before the Courts of law, which though Mr. Aitchieson has contrived to make *last* hitherto, it is not doubted that he will soon require *cobling*, as 'tis more than probable the *birse* of Justice will shew him: he must not suppose his *rooking* will pass with impunity.

I have failed to find anything more about this lawsuit, and can but hope that the froward shoemaker was suitably *welted*.

Peter's next scheme was to establish in 1776 a system of penny postage for letters and parcels throughout the city. This service he efficiently maintained for many years at the "General Penny-Post Office, Edinburgh," in the Luckenbooths, beside St. Giles', until the duties were taken over by Government, when he received a small pension for his pains. It appears from his wife's petition for aliment, presently to be mentioned, that our friend's affairs were thriving: "He carries on a very lucrative business as master of a well-established penny-post office, which brings him in ready money every hour of the day, and enables him to have four men employed daily in dispersing letters, to each of whom he pays four shillings and sixpence weekly; besides the emoluments of his printed Directory, and other profits arising from his business as a printer." Peter, on the other hand, avers that his spouse, in addition to her other shortcomings, was guilty of "frequent and repeated abstractions from his income," and "had been mean enough to enter into a combination with them [his employees], whereby she was enabled to appropriate for her own private purposes little short of three-fourths of the whole profits of the penny-post." [1]

And now we reluctantly approach the most painful episode in Peter's pilgrimage, and must briefly touch upon the infragrant facts of his last litigation. The imprint of the first Directory includes the name of John Wilson, Bookseller, Front of the Exchange. This gentleman had on hand not only copies of that publication, but also a daughter Jean, who in November 1770 became Mrs. Williamson, under the auspices of "the Reverend Mr. John Allan, minister of one of the Episcopal Congregations in

[1] *The Trial of Divorce*, pp. 38, 39, *infra*.

this city." The lady was bred a mantua-maker; after marriage she continued to exercise her craft for the good of the house, and had, she tells us, "the happiness to be countenanced and employed in sundry families of rank and respectability." Over and above the fruits of these labours she in due season contributed to the partnership nine children, of whom four only survived: three sons and a daughter.

One pauses to deplore the infant mortality for which the insalutary state of Edinburgh was long responsible. In massacre of innocents Auld Reikie of the eighteenth century out-Herods Herod; of Deacon Brodie's ten little brothers and sisters but two survived with him the conditions of "life" in the paternal close in the Lawnmarket, and had Scott's father not flitted to George Square when he did, the baby Walter would doubtless have perished like his six small predecessors, a victim to the amenities of the College Wynd.

For some sixteen years Mrs. Williamson proved an ideal helpmate. At their house—"first fore-stair above the head of Byres' Close"[1]—she could, according to her advertisement,

> Engraft Silk, Cotton, Thread, and Worsted Stockings, make Silk Gloves, and every article in the engrafting branch, in the neatest manner and on the most reasonable terms; likewise Silk Stockings washed in the most approved stile; also Grave Cloaths made on the shortest notice. *N.B.*—Mantua-Making carried on in all its branches as formerly.[2]

But, alas, this exemplary dame, having reached an age which ought to have assured her against such accidents, conceived for a lodger an unholy passion, which Peter detecting, he condoned for the sake of the children, to the extent of permitting her still to share his name and roof. "Notwithstanding whereof," as the summons of divorce

[1] Byres' Close may still be seen, adjoining Advocate's Close upon the west, but the forestairs or outer steps leading from the High Street to the first flat—once so familiar a feature of Edinburgh architecture—are now no more.

[2] Directory of 1788.

narrates, "the said Jean Wilson, casting off all fear of God and forgetting her conjugal vows and engagements, has for these several years bygone followed a tract of keeping fellowship, company, and society with godless, lewd, and abandoned men, known not to be the pursuer, one or more; treating, entertaining, and conversing with them privately . . . and other ways unseemly"; and more particularly, "within these twelve months last bygone, the said Jean Wilson has been in the practice of frequenting different houses of bad fame both in this city and neighbourhood, where she used to meet with lewd and wicked men . . . in which houses she has often got herself intoxicated with liquor."[1] Her husband, who as we shall see edited, printed, and published a report of his own divorce case—surely a unique achievement—upon this point in his introduction observes: "Of all bad habits in women that of drunkenness is the worst and an inlet to all other vices. It sullies all virtues and at last extinguishes them." And he handsomely adds, "It overcomes also the superior reason of men." Now the defender averred that Peter himself was in this regard not blameless, being given "to tippling and intoxication with mean and low people; so that he was generally abroad at night till two or three in the morning; and in this dissipated way the profits arising from his occupation was habitually spent." She adduces no evidence in support of the allegation, and Peter contents himself with remarking, "These are reflections which in prudence she ought not to have made." But prudence was not among the few surviving virtues of his Eve. So scandalous became that lady's conduct that the patience of Peter was exhausted, and he insisted on a separation. "But Mrs. Williamson was pleased to take fire at the first reproaches, talked wildly about her injured innocence," and being left by her lord to digest his ultimatum, she stripped the house of everything portable,

[1] The lacunæ are due to the uncompromising plainness of eighteenth-century speech, which is too bold for our nicer ears.

and retired to a lodging provided for her by her father in the Fleshmarket Close, taking with her three children—the eldest boy was a boarder at Heriot's Hospital. So Peter was "obliged to leave his house, which he had possessed for thirty-three years with honour and credit, and betake himself to strange lodgings, separated from wife and family, destitute of every necessary of life, and his substance called in question by his creditors." Adding insult to injury, his wife and father-in-law, who with "the appearance of godliness" combined a pretty talent for scandal-mongering, not only did their best by false reports to blast his moral reputation, but attacked his material welfare "by setting up a penny-post office in opposition to that established by Mr. Williamson himself." His daughter, "who is about fourteen years of age," thus "enticed away" by her mamma, was earning some twenty shillings a week at the mantua-making business, "and this sum," her father pathetically adds, "the defender pockets also."

To end an intolerable position Peter decided to obtain divorce, and by reason of his reduced circumstances was compelled to apply for the benefit of the Poor's Roll. Accordingly in November 1788 an action was raised by him against his errant spouse before the Commissaries of Edinburgh, "with concourse of Mr. James Balfour, Procurator-Fiscal of Court."[1] Defences for Mrs. Williamson were duly lodged, in which the line taken by her was as follows: "She is naturally of an affable, chearful temper, and as her business led her to call upon different persons by whom she was employed, and some of her employers had occasion to call at her, this has been un-

[1] *The Trial of Divorce at the instance of Peter Williamson, Printer in Edinburgh, against Jean Wilson, Daughter of John Wilson, Bookseller in Edinburgh, his Spouse. Containing the whole Proceedings at Large. With a Prefatory Introduction, giving some Account of the Adulterous Gallants, and Reasons for suing the Divorce and for publishing the Proceedings in it. . . . Edinburgh: Printed for and sold by the Booksellers in Edinburgh, Leith, etc. MDCCLXXXIX. Price One Shilling.*

happily construed into criminality, without any just ground or foundation whatever. *Hinc illæ lachrymæ!*" We shall shortly see the unusual nature of her transactions.

Pending these proceedings the defender presented to the Court a petition, craving a payment by her husband to enable her to conduct her defence and also aliment for herself and family. But as the pursuer was suing *in forma pauperis* and stated his willingness to relieve her of the children, the application was refused.

Both parties being allowed a proof of their respective averments, Peter cited nineteen witnesses, of whom nine were examined; his wife called none. The evidence for the pursuer proved beyond dispute the indecorous doings of the defender. It appeared that Mrs. Williamson's chief customers were, curiously, of the sterner sex: a trunkmaker, a Leith merchant, a gentleman "who lived at Dumbreck's,"[1] a banker's man-servant, and other indistinguishable males, were shown to have had dealings with the mantua-maker; while her business calls were at such houses as those kept by Mrs. Tait in Best's Wynd, by Miss Lockhart in Forrester's Wynd, and by Mrs. Johnstone in Writers' Court—establishments, I regret to say, of very ill repute, from which she was wont to return at untimely hours, much the worse of drink. Some of the witnesses fix dates with reference to "the time of Brodie's execution": the recent trial of Deacon Brodie on 27th August, and his subsequent suspension on 1st October 1788, had been the sensation of the season and were fresh in public memory. John Carstairs, "surgeon in Canongate of Edinburgh," said he had professionally attended the defender for a certain disorder; and David Stephens, the trunkmaker, "aged thirty-six years, married," discreetly deponed that it "consists with his knowledge" that Mrs. Williamson had been unfaithful to her husband; and "that his knowledge of the above circumstance is

[1] A fashionable hotel in St. Andrew Square.

not derived from the information of others. *Causa scientiæ patet.* And this is truth, etc." Whereupon the Commissaries on 25th March 1789 pronounced sentence and decreet of divorce in terms of the conclusions of the libel, the pursuer regained at once his children and his freedom, and the defender passed from the purview of the respectable.

Thenceforth the story of Peter's remaining years is bound up with the annual issues of his Directory. If it be true that the happiest reigns are those which have no history, we may assume, from the little further we hear about him, that his latter days were fortunate. From the following advertisement we learn that his daughter gave him a helping hand :—

To the Public.

P. Williamson solicits the interest of the Public in behalf of his Daughter, who has been regularly taught the Art of Ingrafting Silk Stockings, and Making Silk Gloves and Mits in the neatest manner. Likewise Washes Silk Stockings in the most approved taste. Orders are taken in for her at her Father's General Penny-Post Office, Luckenbooths, where her Employers may depend on their Work being done with dispatch.[1]

"Williamson," Constable relates, "had relinquished his stance in the Outer Parliament House before I knew Edinburgh, but his shop and printing-press in the Luckenbooths I remember well. On giving up the penny-post he received an annuity from the General Post Office, but he had been accustomed to a life of activity, and his last occupation was keeping a tavern at the bottom of Gavinloch's Land in the Lawnmarket, where he died about the year 1798 [1799 ?]. He was a great wag, of very jocular manners, and was accustomed to say droll and amusing things to those persons with whom he was in habits of intercourse. The first occasion on which he attracted my notice was at an auction of stockings by an impudent Englishman, not far from Peter's residence. The goods,

[1] Directory for 1790.

Williamson alleged, were not the best of the kind he had ever seen, and jocosely observed that there was a large hole in a stocking then exhibited, meaning the top of the stocking itself. 'It may be all very true, friend Peter!' said the auctioneer; 'but I am told there is a hole in the penny-post that it would take more trouble to repair.'" [1] If that was the best Peter could do he seems to have earned his reputation for waggery on easy terms.

His obituary notice in the Edinburgh newspapers of 19th January 1799 mentions Peter as "well known for his various adventures." His kidnapping, his residence "among the Cherokees," his celebrated war-whoop, his institution of a penny-post, and printing of the first Directory, are all recounted as commemorable. It is plain that in him Auld Reikie had lost what is called a "representative citizen." His sons must have left Edinburgh, for in a notice to debtors and creditors published in the newspapers of the day we read, that "if John and James Williamson, sons of the deceased Peter Williamson, will apply to John M'Glashan, Writer in Edinburgh [agent for his executors], they will hear of something to their advantage." [2] As this advertisement appeared again a year later, with the addition "Not to be repeated," it would seem that the boys had gone abroad.[3]

"In person," Constable tells us, "Peter was a remarkably stout and athletic man." His portrait by John Kay bears out this description: a well-fed, well-dressed, self-important personage, who might be a prosperous bailie or a bonnet laird. And indeed Peter could say with his "poor" namesake in *Redgauntlet*, "If I am laird of naethin' else, I am aye a *dominus litis*." The plate, which is titled "Travells Eldest Son in Conversation with a Cherokee Chief," shows our hero talking to Bruce, the Abyssinian traveller, a meeting witnessed by the artist

[1] *Archibald Constable and his Literary Correspondents*, i. 539.

[2] *Edinburgh Courant*, 28th September 1799.

[3] *Ibid.*, 11th December 1800.

himself at the Cross of Edinburgh. "How dare you approach me with your travels?" Bruce is represented as saying; "there is not a single word of them true!" "There you may be right," retorts Peter, "and altho' I never dined upon the Lion or eat half a Cow and turned the rest to grass, yet my works have been of more use to mankind than yours. There is more truth in one page of my Edinburgh Directory than in all your five volumes 4to. So when you talk to me, don't imagine yourself at the source of the Nile!"[1] Both travellers had suffered at the hands of critics sceptical of the authenticity of their adventures. It is said that the memoirs of the late ingenious Baron Munchausen were written as a satire on Bruce's book, but time has vindicated the author's good faith. The veracity of Peter, as we have seen, was tested in the fires of justice.

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[1] Cf. *Travels to Discover the Source of the Nile, in the Years 1768–69–70–71–72–73.* By James Bruce of Kinnaird, Esq., F.R.S., 1790.

THE AMBIGUITIES OF MISS SMITH:

A ROMANTIC TALE

THE AMBIGUITIES OF MISS SMITH:

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"This action, Sam," said Mr. Pickwick, "is expected to come on, on the fourteenth of next month."

"Remarkable coinc*i*dence that 'ere, Sir," replied Sam.

"Why remarkable, Sam?" inquired Mr. Pickwick.

"Walentine's day, Sir," responded Sam; "reg'lar good day for a breach o' promise trial."

—*The Pickwick Papers.*

MR. WELLER'S "wision," as we know upon the best authority, was limited. Had he enjoyed those ocular powers the possession of which he expressly deprecated, he might have descried in the not distant future a "coinc*i*dence" equally remarkable. His intelligent gaze, thus projected, would behold certain proceedings, instituted before Mr. Justice Wightman and a special jury in the Court of Queen's Bench, Westminster Hall, on 14th February 1846, for a breach of promise of marriage, in which the damages were laid at £20,000.[1]

Even *Bardell* v. *Pickwick*, that memorable trial, must yield the palm to this amazing lawsuit, whether we regard the situation of the parties, the nature of the documentary evidence, or the amount of the damages claimed. Mrs. Bardell was a widow of years and experience; Mr. Pickwick, despite his boy's heart, an elderly gentleman in tights and gaiters. Miss Smith was a damsel of nineteen; Lord Ferrers had but just attained majority and an earldom. The famous correspondence read to the jury by Mr. Serjeant Buzfuz pales into insignificance when set

[1] *Proceedings upon the Trial of the Action brought by Mary Elizabeth Smith against the Right Hon. Washington Sewallis Shirley, Earl Ferrers.* London: William Pickering. 1846.

beside the series of letters produced in this case; what are chops and tomato sauce, or even warming-pans, compared with the wealth of corroborative detail in which these effusions abound? The £1500 at which Messrs. Dodson and Fogg rated the blighted affections of their client is a mere bagatelle in comparison with the sum required to compensate the sufferings of Miss Smith. Finally, one day sufficed for the disposal of poor Mr. Pickwick, whereas the settlement of this young lady's claims occupied four.

I confess to a certain sympathy with Mrs. Bardell. The behaviour of Mr. Pickwick was ambiguous and calculated to mislead a confiding and susceptible female, who had conceived for him a passion which few will be disposed to blame. And if we thus pity a mature landlady denied the privilege of becoming the consort of her stout, bespectacled lodger, how must we condole the disappointment of a maiden who loses the coronet almost within her grasp, to the gracing of which she felt herself so admirably fitted? The wicked nobleman, too, that stock figure of Victorian romance, all whiskers and no heart; how shall we sufficiently reprobate the baseness of *his* conduct in frustrating these amiable and tender hopes? But this, as Major Bagstock would say, is weakness, and nothing shall induce us to submit to it. Let us therefore approach the facts in the calm and dispassionate spirit proper to a narrator of history.

It was a brilliant bar. The Solicitor-General, Sir Fitzroy Kelly, led for the fair plaintiff, his juniors being Mr. Chambers, Q.C., Mr. Robinson, and Mr. Symons. The noble defendant was represented by the Attorney-General, Sir Frederick Thesiger, assisted by Mr. Crowder, Q.C., Mr. Humfrey, Q.C., and Mr. Barstow. Mr. Symons having opened the pleadings, the Solicitor-General [1] pro-

[1] Sir Fitzroy Kelly (1796–1880); Lincoln's Inn, 1824; K.C., 1834; defended Tawell the murderer, 1845; Solicitor-General, 1845–6, 1852; Attorney-General, 1858–9; Lord Chief Baron, 1866–80.

ceeded to state his client's case to the jury. The defendant, he said, was a nobleman of very ancient family and vast landed possessions in the counties of Leicester and Stafford. He came of age in 1843, and had succeeded to the title and estates on the death of his grandfather, the eighth Earl Ferrers, on 2nd October 1842. As Viscount Tamworth he received his education from a private tutor, Mr. Echalaz, at the village of Austrey in Warwickshire, until 1840, when he went abroad. The plaintiff also lived at Austrey with her father, a gentleman of moderate means but high character. Her mother was extremely well connected, being descended from the Curzons, the family of Lord Scarsdale.[1] As early as 1839 Miss Smith attracted the notice of Lord Tamworth; occasional meetings led to conversations and correspondence, and before going abroad his lordship made to her the most passionate declarations of love, of unalterable, enduring attachment. These feelings were reciprocated, the parties became engaged to be married, and it was agreed that the ceremony should take place so soon as he reached majority. The attentions of the young Viscount came to the ears of her parents; in view of the disparity in rank they regarded the matter with some apprehension, and for the protection of their child sent her to school in London and afterwards to France, where she might complete her studies remote from the dangerous fascinations of the peerage. Two years passed, and when Lord Tamworth returned from his travels Miss Smith was fortunate to find him still faithful to his plighted troth. He sought every opportunity to continue the intimacy and saw her as often as possible, riding over from Chartley Castle or Staunton Harold, his country seats, respectively situated thirty and fifteen miles from Austrey. The intervals between the meetings were bridged by a

[1] Robert Sewallis Shirley styled Viscount Tamworth (1778–1824), only son of Robert, VII. Earl Ferrers, by his 1st wife (Jane Prentice), married 5 August 1800 Sophia Carolina, 1st dau[r] of Nathaniel Curzon, 2 Baron Scarsdale. She d. 1849.

voluminous correspondence. When on the death of his grandfather he succeeded to the title, and in the following year came of age, it was agreed that the union should take place in May 1844, the date being afterwards at his request postponed to August. Every preparation was made, the trousseau and the cake were ordered, the bridesmaids chosen, when in July, within sight of the ceremony, this unhappy lady read in a newspaper the announcement of his marriage to another.[1]

With regard to the correspondence counsel said that Lord Ferrers' letters, some of which he would produce, were in the earlier stages written upon scraps of paper, in a hand scarcely legible, and many of them had been lost. By the beginning of 1844, however, they increased not only in fervency of affection but in legibility and volume. It was remarkable that in writing to this young lady his lordship should constantly allude to things and persons having no existence save in his own imagination. Some explanation of that would no doubt be given later ; meanwhile the habit appeared unintelligible, and on the part of an educated gentleman, inconceivable.

Deeming her not finely enough dressed to suit his aristocratic taste, Lord Ferrers desired his betrothed to purchase, as presents from himself, certain articles of apparel, for which he was in due course to furnish her with money. Carried away by this singular act of generosity she blushingly incurred liabilities to the tune of £200 ; the tradespeople pressed for payment, and though in delicate and reserved terms she hinted to her noble lover that it would be well to settle these accounts, no remittance came to enable her to do so. Tenderness for Lord Ferrers' reputation led her to withhold from her parents the fact that she had been obliged to buy his presents herself. "Please calm all apprehensions as to bills, etc.," airily wrote his lordship, "these I will attend to when I come

[1] The Hon. Augusta Annabella Chichester, daughter of Lord Edward Chichester, afterwards second Marquess of Donegal.

down ; this I add for fear you should be vexing your dear self unnecessarily." " Gentlemen," continued the learned counsel with true Buzfuzian emphasis, " he did *not* come down, and she *did* vex herself, not unnecessarily." The importunity of the creditors at length compelled her to tell the truth to her parents, who were much perturbed by the absence of business habits thus manifested by their future son-in-law. Mr. Smith wrote to Lord Ferrers on the subject, and in due course received the following reply : " Sir,—It is my will and wish to instantly pay for all at Tamworth as soon as may be. This much I say, and I feel very grieved that any such indiscretion of mine should have caused vexation to Mary. Allow me to remain, truly yours, Ferrers." As the wish remained father to the thought and the Earl sent no cheque, Mr. Smith had to borrow the money to pay the bills himself, the lender being the lady's maternal grandfather. But, owing to her distress of mind, Miss Smith concealed from her parents a debt of 30s. due to one Miss Wyman in respect of a certain pink silk bonnet, and even went the length of denying to that lady's face that she had ever ordered it. This, counsel admitted, savoured of dissimulation, but was a trifle when compared with the perfidy of Lord Ferrers.

The Solicitor-General then quoted extracts from the correspondence between January and July 1844, which will come in more conveniently later, when the letters were read in full to the Court. The postponement of the marriage further alarmed the parents, but all doubts were set at rest on receipt by Mr. Smith of the following letter :—

My dear Sir,—This note ought to have been with you long ago, but " better late than never " is the old adage. May it apply in my case. Without entering into particulars, I am aware you know that in secret I have long sought your eldest daughter ; now, openly, I ask her of you for my wife ; I hope you will not refuse me her. Ere this I should have come personally to have made this request to you, had not untoward circumstances prevented. I hope shortly to see you ; then,

if convenient, we can arrange about her settlement, etc. I have mentioned August as the month to her. I hope when we meet everything, all things, will meet with your approbation and that of Mrs. Smith. Allow me to sign myself, very faithfully yours, W. FERRERS.

Chartley, June 24th.[1]

In view of the intimate and affectionate character of the correspondence, proving meetings, unchangeable attachment and abundant evidence of the promise of marriage, the jury would participate in counsel's astonishment when they learned the nature of the defence : that Lord Ferrers never spoke to this young lady in the whole course of his life, that he did not even know her, and that all these letters were from beginning to end one tissue of fabrications and forgeries ! That a girl of nineteen should conceive and execute the atrocious design of entering into such a conspiracy, making her parents and others parties to that conspiracy, and carrying it out by means which would defy the skill of the most experienced experts, was impossible to believe. It was madness to suppose that a girl could sit down and forge the writing of this nobleman in the long series of letters which would be laid before them ; the task was beyond the ability of a professional imitator of hands or an inspector of franks. Instead of contenting herself with a few words importing a promise of marriage, that she should expose herself to attack in every one of the ten thousand lines throughout these letters was incredible.

The parties were fighting with unequal weapons. The defendant's cousin, Mr. Evelyn Shirley, so continually mentioned in the correspondence, had refused to give any information. Adkins, his lordship's confidential man, through whose hands the letters passed, took up the same position. As he — counsel — did not know what these persons might say he could not call them, but he would produce the Rev. Mr. Arden, Lord Ferrers' domestic

[1] *Proceedings*, p. 25.

chaplain, and other gentlemen familiar with his writing, who would establish beyond dispute the genuineness of the letters. He would also call witnesses as to meetings, people who had seen the parties together at sundry times and in divers places, he would prove the gift of an engagement ring, and he would put the lady's parents in the box.[1] Both Lord Ferrers' father [2] and grandfather [3] had married women of low degree, and his education, as shown by the style of his letters, was below that of a charity schoolboy. The plaintiff was a highly educated and accomplished lady, and would never be guilty of the faults in grammar and spelling exhibited in these letters. The terrible wrong, the dreadful agony of mind inflicted on her, the destruction of her whole prospects, and the attempt to stigmatize her as a criminal, the jury would bear in mind, along with the great wealth and station of the defendant, in appreciating the amount of damage she had sustained at his hands.

One can conceive the sympathetic murmur—what the reporters of the State Trials would term " a great Hum " —amid which the learned counsel resumed his seat. An admission having been put in that the defendant was born on 3rd January 1822, and was married at St. George's, Hanover Square, on 23rd July 1844, the Rev. Edward Francis Arden, Clerk in Holy Orders, was called. He had been chaplain both to the late and to the present Earl, and had known the latter intimately as Lord Tamworth. When his lordship returned from abroad until 1844 witness was his constant companion. Lord Ferrers' education

[1] By a beneficent and wise provision of the law, as it then stood, the plaintiff and defendant, being the only persons acquainted with the facts, were not available as witnesses.

[2] Rt. Wm. Shirley, Visct. Tamworth, b. 1783, d.v.p. 2 Feb. 1830, aged 46; m. 12 Dec. 1821 at Brailesford, co. Derby, Anne, d[r] of Richard Weston. She d. 7 Oct. 1839.

[3] Washington Shirley, E. Ferrers, m. 1st. 1781, Frances, d[r] of Rev. Wm. Ward ; 2. 28 Sep. 1829, Sarah, d[r] of Wm. Davy. He d. 2 Oct. 1842.

had been imperfect. Witness was well acquainted with his handwriting. Shown ten letters to Miss Smith and two to her father, he said he believed them to be Lord Ferrers'. He recollected an accident happening at Staunton Harold, when, fencing with swords, he cut the Earl's finger. Lord Ferrers used to disguise himself, "after the fashion of the toll-gate breakers," by putting on a nightshirt and blackening his face and whiskers. Witness had seen him wearing a ring similar to that produced.

Cross-examined by the Attorney-General, he had officiated at Stowe, at Staunton, and at Chartley. He had seen Lord Ferrers in disguise there. Witness also disguised himself by putting on his shirt outside his clothes, etc., and the Earl painted on his face "moustachios," which as a clergyman of the Church of England he was not in use to wear. They went about together so disguised several times—"just a mere bit of a schoolboys' lark." He acknowledged, under pressure, that his age was about thirty-seven. Asked whether on these occasions he was sober, the reverend gentleman replied, "I am sure I do not know; that is of no importance." He denied that complaints were made of his being often drunk: "it was merely the chat of the country that he was a little careless," but whether of drink, of his clerical duties, or of his reputation he was unable to say. "People will talk; if you had been there they would have talked about you just the same," added the witness. "I should probably, Sir, have been more secure from the observations," retorted the Attorney-General. Witness swore that on no occasion between 1842 and 1844 was he ever the worse of liquor. In June 1844 he left Staunton of his own accord; he was not dismissed. He then stayed with Mr. Ingram, a surgeon at Chartley. It was untrue that he and his host's daughter were turned out of the house for misbehaviour. He and Mr. Ingram afterwards quarrelled, not on account of his improper conduct with the daughter,

but because her father was a fool and a blackguard. Witness was searchingly questioned as to his relations with this lady. He denied that they had lived together or that he had driven her about the country, but admitted that occasionally he had been with her by rail to Birmingham. When after leaving Chartley he went to Stowe he put up at the Cock, a public-house, where he was accustomed to meet his parishioners. He was not frequently intoxicated there, though he was in the habit of drinking with the landlord. He had received half-a-dozen notes from Lord Ferrers : the letters produced he believed to be in his handwriting. Accompanied by Miss Ingram he had called upon Mr. Collis, a jeweller, with reference to a ring which had been mended for the Earl, and asked whether Collis knew his lordship's writing. He told Collis that Lord Ferrers had refused to receive him and had cut him in public ; but this was not in reply to Collis's question why he was helping Miss Smith to get up her case. He had been shown by Mr. Hamel, attorney for the plaintiff, letters, other than those now produced, purporting to be the defendant's, which were not in his handwriting. He admitted saying to Mr. Eld, his lordship's steward, that there was only one letter which he thought genuine, and *that* he could not swear to. A long re-examination failed to rehabilitate the reverend rogue, whose reluctant and evasive answers led to some sharp passages with judge and counsel. He now said that the two letters signed " Devereux Shirley "—the defendant's brother—were the other letters to which he referred. He had no knowledge of or acquaintance with Miss Smith or her family before the trial. The impression left upon the jury by this deleterious divine can hardly have been favourable.

Major Majendie, who had served with Lord Ferrers in the Staffordshire Yeomanry, was next called. He had seen his lordship's signature to pay lists and had some slight correspondence with him. He thought the letters

produced very like his writing. Cross-examined, he had received at the outside four notes from Lord Ferrers, inviting him to shoot, etc., and never saw his signature to any pay lists but two. William Perkins, paymaster of the Staffordshire Yeomanry, gave similar evidence. Cross-examined, he had never seen any of the defendant's writing except his signature. He had been shown three letters signed "Devereux Shirley," one of which he thought more like Lord Ferrers' hand than the rest. Timothy Colborne, footman to Lord Ferrers at Chartley from February to August 1843, said that his lordship often went with his own horses to Rugely and would take post-horses there. Rugely was on the way to Austrey. He had seen the Earl write and knew his hand: the letters produced were certainly his. Lord Ferrers was in the habit of writing on scraps of paper; witness had dried his letters for him at the fire, and had seen him sign "Washington Ferrers." Cross-examined, he had seen at least fifty letters so signed, and over a hundred signed "Ferrers." The former were addressed to members of the family: his lordship's brother, sister, and cousin. Prudence Cotton, daughter of the Chartley postmaster, said she knew Lord Ferrers' writing and identified as his the letters produced. On cross-examination it appeared that she was not employed in the post-office.

Such being the evidence for the plaintiff on the question of handwriting, let us now hear that adduced as to actual meetings between the parties. William Stanton, butcher in Appleby, knew them both by sight. He saw them together upon two occasions: near Austrey brickfield in the summer of 1840 or 1841, and walking on the road between Austrey and Appleby in the summer of 1843. Cross-examined, they passed his garden while he was digging potatoes; he did not stop to watch them, but "kept working like a rum 'un." The plaintiff was "hanging on Lord Tamworth's [Ferrers'] arm." He did

not remember telling one Saddington that he had never seen them together. Thomas Trennadine, maltster in Appleby, knew the parties by sight. Several times in the autumn of 1839 he saw Lord Tamworth come out of the Smiths' garden-gate between 9 and 10 p.m. Cross-examined, he had been absent from the district for five years before 1839 ; he did not go away to avoid a prosecution regarding some malt. The evidence of the next witness, though rather irrelevant, is too amusing for abridgment and must be given in full :

William Taylor, sworn, examined by the Solicitor-General.

Do you live at Austrey ?—Not when I am in London.

Did you live there ?—Yes.

Do you live there when you are at home ?—Yes.

Do you remember Lord Tamworth, who is now Lord Ferrers, being at Austrey ?—Yes, I do.

Now did you at any time see him and Miss Smith together ?—I passed them both at one certain time, and a horse as well.

How long ago was this ?—I think it was about 1814.[1]

Mr. Justice Wightman. This man seems exceedingly tipsy.

The Witness. No, I am not.

The Solicitor-General. I will not ask this witness any more questions.[2]

William Tell, Austrey, saw three years before Lord Ferrers talking to Miss Smith on the Appleby road. Cross-examined, it was in November, about four o'clock, but he would not swear to a quarter of an hour " no way." " There might be two yards between them " at the time. Emma Base, the Smiths' servant, said that she used to walk out with plaintiff and the children. They met Lord Ferrers many times ; he was on horseback and would dismount when he saw them. On these occasions by Miss Smith's order she walked on with the children and plaintiff afterwards rejoined her. Cross-examined, she never saw them in conversation. Elizabeth Bircher,

[1] As Lord Ferrers was not born till 1822 and Miss Smith till 1825, the proleptic character of this testimony is apparent.

[2] *Proceedings*, p. 125.

Austrey, once met them walking arm-in-arm when Lord Tamworth was with Mr. Echalaz. Three times she saw him ride past the Smiths' house and turn to look at it. Cross-examined, he was fully two minutes riding past, with his head on his shoulder. "It must be a good long house," commented the Attorney-General. John Page, bailiff's follower, at 2 p.m. in July or August 1841, 1842, or 1843, saw the parties walking side by side three yards apart, in the Butts field behind the Smiths' house. Cross-examined, he was then going to buy a sickle, and 1843 was the last year in which he reaped.

This, with the notable exception now to be mentioned, is the whole evidence of Lord Ferrers ever having been in Miss Smith's company. Ann Smith, aged thirteen, sister of the plaintiff, said that she had often seen Lord Tamworth at Austrey. One day in the spring of 1843 she looked in at the drawing-room window of her father's house and saw his lordship standing at the chimneypiece; her sister entered the room, and she left the window. On 9th December 1843, the day of Austrey Wake—the local fair—on going into the drawing-room to tell her sister that the Wake-cake woman had come, she found Lord Tamworth playing the piano. Her sister was with him. He rose up, and witness went out so soon as she saw "who it was." Her sister took cakes and wine into the room for the noble visitor's refreshment. She was told she would be whipped if she went in while his lordship was there. Cross-examined, she used to see Lord Tamworth at church. The first time she saw him in the drawing-room was after breakfast, about Easter. Her mother had told her not to go into the room and she guessed Lord Tamworth was expected. The second time was at midday. She was sure of the date because of the cakes. Her mother was in the sitting-room when the Wake-cake woman called; the servants were in the kitchen. The piano could be heard all over the house. Re-examined, Lord Tamworth could get into the garden by the fields

without being noticed. He used to gaze at her sister in church.[1]

Thomas Nicklin Smith, father of the plaintiff, said he was an invalid, much confined to bed. He first heard of Lord Tamworth's attentions in December 1839, and sent his daughter away to school until his lordship had left Austrey. After Lord Ferrers' return from abroad in 1843 witness understood that he came to the house, but never saw him there. In 1844 his daughter showed him from time to time letters which she had received from the Earl. He identified the ten letters produced. In June 1844 she handed him a letter,[2] proposing for her hand; he replied, accepting; read his answer to a friend, Mr. Holgate; and gave it to Mrs. Smith to seal and post. He had destroyed the draft. His daughter afterwards showed him an acknowledgment from Lord Ferrers, which was not among the letters now in Court. In February or March last he was shown by Mrs. Smith and John Lees two handkerchiefs, enclosed in letters from his daughter to the Earl, addressed to his lordship at Chartley Castle. The preparations for the wedding and the shock of the newspaper announcement of Lord Ferrers' marriage concluded the examination-in-chief. Cross-examined, Mr. Smith said that his daughter was fifteen and Lord Tamworth seventeen when the latter was with Mr. Echalaz. He made no communication to that gentleman regarding his pupil's behaviour, not being on friendly terms with him. He knew his lordship by sight but never spoke to him. In 1843 he saw dresses, books, etc., which he was told were presents from the Earl. His daughter had no allowance of her own. He was unable to seal his letters himself. He had seen letters, other than those produced, and some pieces of poetry, received from Lord Tamworth.

[1] It is unfortunate that this interesting child did not tell her story *before* her mother was in the box. As it was sprung upon the defence later, they had no opportunity of questioning Mrs. Smith in regard to its many remarkable features.

[2] See p. 155, *supra*.

Shown certain documents which he was not allowed to read, he believed them to be in his daughter's handwriting.[1]

Mrs. Mary Anne Smith, the plaintiff's mother, was in her own way as unsatisfactory a witness as the Rev. Mr. Arden. She described herself more than once as a truthful woman, anxious to tell the truth; but perhaps she was if anything too full of that virtue, which was so compressed within her respectable bosom that it was hard to come by. She said she learned from her daughter of Lord Tamworth's attentions while he was with Mr. Echalaz. When he returned from his travels her daughter said she had met him again, and showed her from time to time letters received from him. The handkerchiefs were sent at different times: she saw her daughter write the letters, fold them up, and put in the handkerchiefs. Both were posted by John Lees. In April 1844 she accompanied her daughter to Stafford where they were to meet Lord Ferrers, who had invited them to Wales; he failed to come as arranged, so they returned home. From Syerscote Manor, her father's house, her daughter wrote to the Earl a letter, posted at Tamworth. She wrote again, the letter being posted at Lichfield by Mrs. Perry, a sister of witness. Lord Ferrers replied, proposing to Mr. Smith for his daughter's hand; Mr. Smith's answer, accepting, was read to her and to Mr. Holgate; she sealed it, put it in a drawer overnight, and posted it next day at Ashby in presence of Mr. and Mrs. Holgate. When everything was ready for the wedding she learned of Lord Ferrers' marriage.

To the cross-examination of this lady by the Attorney-General no summary can do justice. Anything but obtuse, she was swift to mark the bearing of his questions, saw his points almost before he made them, and indeed was so wary and acute a witness that she proved at times more than a match for her learned adversary. She

[1] The significance of this admission will presently appear.

"hedged" with a persistence which made it well nigh impossible to pin her to any definite statement. For instance, the judge would observe: "We are not sure what her answer is"; "I find great difficulty in taking down an answer that is immediately retracted"; "that is exactly contrary to what she said before"; "she states first she believes it is paid, and then says she does not know," and so forth. Mrs. Smith said that everything was prepared for the wedding; linen, dresses, etc., were ordered, four bridescakes bespoke, two bridesmaids engaged. Yet she had never spoken to Lord Ferrers in her life. He "signified" that he would come to see the parents of his fiancée, but never appeared. The preparations were all made by his desire. After the Earl's return from abroad she and her daughter attended a ball at Tamworth. *Her daughter, who was tall and dark, wore a single white rose in her hair.*[1] Lord Ferrers, though expected by them, was not present. Her daughter afterwards received from him many gifts of dresses, jewellery, and books: silks, cashmeres, muslins; rings and brooches; the Abbotsford edition of the Waverley Novels, etc. Two or three months later the bills came in; witness paid them; they amounted to £200. She saw only the totals, the detailed accounts were sent to the Earl. *Her daughter sometimes used the name "Marie."* Witness never actually saw her receive a letter from Lord Ferrers. A pink silk bonnet was delivered on 29th June 1844. The box contained a note from Mr. Devereux Shirley. An account for it was rendered at Christmas which she showed to her daughter, who said there must be some mistake. On 6th January 1845 she and her daughter, accompanied by their solicitor Mr. Hamel, went to Ashby and saw Miss Wyman, the milliner. Miss Smith did not then repeatedly deny that she had ordered the bonnet, nor did Miss Wyman remark "she wondered she (plaintiff)

[1] The reader is requested to note this seemingly irrelevant fact.

wasn't struck dead." Witness did not say that if her daughter would confess she would forgive her. The latter told her that Devereux Shirley personally at Ashby handed her the note, which was to be put in the box to deceive her papa and mama. Hamel paid the bill. She saw Miss Wyman again after the present action was raised, and asked her not to mention the bonnet episode till the case was decided. Shown certain documents which she was not permitted to read, Mrs. Smith said that they were in her daughter's writing.[1] She identified the two handkerchiefs produced as those sent by Miss Smith to Lord Ferrers. She had no recollection of a conversation with a Miss Neville, when that lady pointed out the resemblance between the handwriting of the Earl's letters and that of her daughter; she might have said that the likeness had been remarked in the family; she did not say that Miss Smith had got some of his lordship's writing and used to imitate it. She was much upset at the time, because the defendant's agent had said "they [the Smith family] would all be put in Warwick Gaol as forgers." "I am a truthful woman," exclaimed the witness; "I am glad to find one," cynically retorted the Attorney-General. Her daughter never wrote to her lover before his return from abroad. She was not a great reader of novels.

Application was here made that the defendant's witnesses might have an opportunity to inspect the letters; this was opposed, but the Court allowed it, on condition that only those to be called should do so.

John Lees and Mr. and Mrs. Holgate, friends of the Smiths, Mrs. Perry, aunt of the plaintiff, and Susan Hopely, one of their servants, severally swore to the posting of letters, addressed by Miss Smith to Lord Ferrers, at Atherstone, Tamworth, Derby, Ashby, Leamington, and Lichfield respectively; and an official of the Dead

[1] The importance of this will be appreciated later.

Letter Office proved that no letter to Lord Ferrers had been returned to his department.

The famous correspondence of which we have heard so much was then read by the Associate. In view of its extent, the great variety of topics touched on, and the spaciousness with which these are treated, it is impossible to give the reader more than a mere taste of the writer's epistolary gifts. The first, dated " Mivart's, February 11th," was addressed to " Dearest Mary " :—

> If wishes could transport me to you there would be no need of this writing ; but as I am anxious, most anxious to hear of your well being, and also to tell you that business relating to my grandfather's will may detain me longer than I thought from you, I send this. . . . I have seen chairs I think will do for one of our rooms at Chartley. Won't the old Hall be bright and happy when its future mistress takes possession of it ! Pray take care of yourself, dearest ; forget not you are the only hope of one to whom a palace would be but a desert and England no home without you ; far dearer to me than each earthly blessing. Mary, you who are all in all to me, take care of yourself, and mind when you return from walking you change your shoes. You may laugh at me, but you are not particular, I know, in this respect and you may take cold. . . . It has often struck me that there is something untold to me, some secret care I know not of that troubles you. Why not, dear girl, tell me if it is so, for I have often seen you look sad and unhappy. . . . I hope even this will cease in May, that you may be my bride, my wife ; then all that is mystery now will be cleared, and your father will not have to look for the marks of horse's shoes in that hovel of his, but that " Zimro " may be found in his stable.[1]

He tells her of visiting his sister who is ill at Brighton, of a dinner party he has given at Mivart's, of his intention to purchase for £1000 the conservatory at Staunton, and of his regret for " the loss of that foolish £5000," which will be a warning to him : his father and grandfather lost much money in that way, and he is not minded to become " a second Lord Huntingtower." He draws a pathetic picture of the married state of his cousin, Evelyn Shirley's daughter, " who wedded Walker," a gentleman,

[1] *Proceedings*, pp. 279–280.

as appears, of a proud, cold-hearted character, a man unloved, married for wealth or station, and his lady "more like a corpse than anything else." He concludes as follows :—

Do not laugh at the various pieces of paper I send ; you know my fondness for writing on little pieces. Adieu ; every earthly blessing be yours, is the sincere wish of your much attached till death, WASHINGTON FERRERS. *P.S.* This Atkins [*sic*] brings. Write and say how you are ; he will post it. Let no one see this, 'tis so bad a specimen.[1]

In his next letter, also dated "Mivart's," his lordship acknowledges receipt of a handkerchief marked with her hair, the gift of his betrothed, which he will prize beyond all mortal mouchoirs. He hears from Devereux, who has seen her, that she has been ill, and reproaches her for not communicating the fact direct. He has much interesting gossip to give her concerning his friends Sir Robert Peel, Lord Clive, Lord Claude Hamilton, and other high company. "Mrs. Walker no better ; I hate her husband." The claims of fashion are not neglected by this observant nobleman : "Bonnets are not very pretty, plumes are universally worn." His hand is paining him—"that foil and Harding [*sic*]." While he was buying a beautiful casket for her boudoir at Chartley, his cousin Evelyn came into the shop, asked what a bachelor wanted with such an article, and "supposed the next thing would be a wife."

Send the other handkerchief with a note when finished. . . . Lord Brougham dined with me yesterday. I like him well, he comes here to-morrow. . . . My promised wife will be all on earth to me. I am reading much now, as I really find myself wanting here amongst all these great men. I was surprised to find what a good Italian scholar Evelyn is, he knows it well, the language. Adieu now, dearest, ever think of me as your only truly attached, WASHINGTON FERRERS. Remember me to your sister Ann.[2]

The next letter thanks her for the other handkerchief.

[1] *Proceedings*, pp. 281–282. [2] *Ibid.*, pp. 284–285.

He has been staying with the Shirleys at Eatington, the house-party including one Sir Terence Volney of Berkshire, "a strange person, very pleasant, quite an enthusiast as regards religion, rich, and not over young." The family name of this amiable baronet ought, by the way, to have been Harris, for no human eye but his creator's ever beheld him in the flesh. After these practical details the writer thus waxes lyrical :—

> Lady of my heart and earliest love, what fond remembrances enfold themselves round thy image! All my hopes and fears, boyish and manly, are with thee; with thee my happiness began, with thee will end the rose of my existence. Pure white rose thou may'st be compared to, for thy thoughts are pure as drifted snow, and as such I prize thee, my own love, for thou wilt make my life blissful and happy. Only take care of yourself, and remember—[not, this time, to change her shoes]—you are mine.[1]

He must see Jessop, his confidential attorney, one of the tribe whom Evelyn calls bloodsuckers; "I cannot do without Mr. Jessop." Devereux has joined his regiment, Evelyn has lost some thousands in a speculation with Mr. Wilberforce, and there is further mention of the unhappy wife of "that brute Walker," who seems to have been his King Charles's head. This is all the family news. The next letter, written from 26 Park Lane, after certain pertinent reflections upon mutual trust and confidence as the true foundations of happiness in married life, proceeds :—

> I shall certainly come the day before our wedding and stay with you at your home, judging it cannot be objectionable to your parents. Perhaps before that time I may introduce myself in due form, but this we will talk of when I come. 'Tis, as you say, strange for Papa and Mama not to know the intended husband of their child till so shortly before the ceremony which unites the two; but I hope the hereafter will make up for the now in these things.[2]

He has been at Brighton again on a visit to his ailing sister, who despite her broken health keeps much company.

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[1] *Proceedings*, p. 286. [2] *Ibid.*, p. 289.

I saw some right queer young ladies there, Scotch women, Miss MacTrevors; very rich, very ordinary, bold—in short anything but nice. And these are called fashionable women—Heaven keep me from such! Oh, in the evening they exposed to view such shoulders! 'twas more than kind. I quite longed for Devereux to see and quiz them, and sketch them, which he would have done to perfection! . . . Adieu, dearest and best, take care of yourself, and let each thing you want be in a state of preparation.[1]

The next, dated "Deanery, Bangor, April 30th," deals with his disappointment at the miscarriage of the Cambrian excursion: "It seems we were not to meet together in romantic Wales, that land of mountain and heath blossoms." He is sorry to hear about the bills for his presents, but looks forward to "the pleasure of reimbursing your grandfather"—the pleasure would doubtless have been mutual. Let their marriage take place in June; when he returns home he will instruct Jessop to prepare the settlements. The next, without date, is from Chartley. Holding her as he does "the choicest gift of God," he conjures her to disregard anything she may see in the newspapers respecting his impending union with a Welsh lady: "what lie will not the papers tell?" He is sensible that people must think him a rogue or a fool, but he finds comfort in the knowledge that she will never forsake him. The next, from Chartley, undated, further postpones the ceremony till August. He is full of troubles; Eld, his steward, talks of leaving him, and he is like to lose the ghostly counsel and support of the Rev. Mr. Arden. He hopes her parents will not object to "this putting off our bridal," though he has heard that Mr. Smith is stern and unbending. "The bridecake will keep," he prudently reflects, "and be the better." Devereux is to get leave to attend the wedding. The next has reference to her engaging a waiting-woman for the first week of August. Then on 24th June he writes from Chartley Castle, enclosing the formal proposal addressed

[1] *Proceedings*, pp. 289–290.

to Mr. Smith already mentioned.[1] The last of the series is dated " Shirley Wich, July 13th "—ten days before his marriage to Miss Chichester. He has been laid up with fainting fits, but so soon as he is allowed to travel he will be with her.

> Do not be surprised if I come quite *incog.* and stay with you at the Swan. Remember you the quantity of wigs and the potent stain of the walnuts ? Look out for me on Tuesday. . . . Tell Mama to look well if she will not recognize me in the pale and sallow young man she may meet at the Swan. Till then adieu, my own, my promised bride. Ever yours till death, FERRERS.[2]

The series concludes with certain letters of Devereux Shirley, written from the sickroom, giving a harrowing account of the sufferings of the noble invalid.

The case on the part of the plaintiff being closed, the Attorney-General [3] addressed the jury for the defendant. Much must have seemed to them, he said, unintelligible, many questions put by him have appeared pointless, but all would presently be made plain. The alternative before them was a painful one : if they decided against the plaintiff they dismissed her from Court with ignominy and disgrace ; if in her favour, they must find that a young nobleman, having engaged the affections of a girl, had afterwards denied his attachment, and used the very tokens of his affection as a means to fasten upon her the odious crimes of forgery and fraud. His learned friend, adverting to the nature of the defence, had dwelt on the improbability of a young girl, even were she bold and wicked enough to contrive such a scheme, being able to carry it out. But to that argument the cases of Elizabeth Canning and of Maria Glen afforded a sufficient answer.[4]

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[1] See p. 323, *supra*.

[2] *Proceedings*, p. 296.

[3] Sir Frederick Thesiger (1794–1878) ; Gray's Inn, 1818 ; K.C., 1834 ; Solicitor-General, 1844 ; Attorney-General, 1845–6, 1852 ; Lord Chancellor, 1858–9, 1866–8.

[4] Counsel might also have cited the more relevant case of Marie de Morell and Lieutenant La Roncière in 1835, of which an account is given by H. B. Irving in his *Last Studies in Criminology*, pp. 89–178, London, 1921.

The case could be conveniently divided into two periods: (1) from February 1839 to June 1840, during which, as Lord Tamworth, defendant was with his tutor at Austrey; and (2) from January 1843, when as Lord Ferrers he came of age, to July 1844, when he married his present wife. The notes and poetry alleged to have passed between this boy and girl were said to have been destroyed by her. It was remarkable that a village maiden should not have preserved such flattering proofs of her patrician conquest.

Counsel then reviewed the evidence of meetings during the first period, remarking that it seemed rather a weak foundation for so imposing a superstructure. It was to him wholly immaterial whether these two young people met at that time, occasionally walked together, or exchanged a word or two. No one had come forward to say that they ever *conversed*. If it were true that his lordship frequented the house, why were his visits not proved by the family and servants? After his return from abroad, coming of age, and succession to the title, the defendant alleged, and the jury would probably believe him, that no communication of any kind took place between him and the plaintiff.

With regard to the letters produced, while the plaintiff was enabled to select her witnesses to handwriting, the defendant first got a sight of them in the course of these proceedings. His advisers expected that the postmarks would form an infallible test for detecting the fraud, but they found that there were none, that all the letters were said to have been delivered by the Earl's servants! He might tell the jury at once that this was an entire fabrication and falsehood; that neither Adkins nor James ever received from their master for, or delivered to Miss Smith one single letter. The letters were admittedly full of fictions, which the Solicitor-General sought ingeniously to account for by saying that Lord Ferrers was constitutionally incapable of telling the truth. But what

conceivable motive could he have in making these false statements? They would, however, under Providence, be the means of exposing and defeating this shameful fraud.

Passing to the second period, they heard of meetings, even under her father's roof, of letters breathing ardent affection, of the naming of the very day, continuing to the eve of his marriage to someone else. Now Lord Ferrers was his own master; family circumstances would make him less scrupulous than usual about marrying beneath him; there was absolutely no reason for his not approaching the parents. Why remain concealed and correspond through agents? Why, engaged to another lady since May, write to Mr. Smith in July, proposing for his daughter's hand? There were two witnesses only to alleged meetings at this time: Page, the bailiff's follower, who couldn't say whether it was in '41, '42, or '43—the sort of evidence it was impossible to meet—and Ann Smith, the plaintiff's little sister, whose evidence was, to him, the most distressing incident in that painful case—a child brought forward to tell a story utterly false. From the mother's evidence it appeared that Lord Ferrers had never been beneath her roof, and this new statement took the defence completely by surprise. She said that she twice saw the Earl with her sister in the drawing-room, the first time "about Easter"; that her mother warned her not to go in, and that she knew perfectly well that he was expected. So the visit was notorious in the family; yet neither the parents nor the servants said a word about it. As to the second occasion, fortunately for Lord Ferrers, they had a definite date: 9th December 1843, the day of Austrey Wake: which enabled him to meet *that* falsehood. It would be proved that on that day he posted with his sister after breakfast from Chartley to Welshpool, where they lunched, and thence to that lady's house in Wales. Even "Zimro," the swift horse, could not have enabled him to cover the fifty-eight miles to

Austrey and back, to play the piano there at midday, and to lunch at noon at Welshpool. His sister's oath, his steward's accounts, the bills for the posthorses and for the meal, would establish the fact beyond dispute.

As to Lord Ferrers' education, so far from being like that of a charity boy, he had been at two private schools and for two years at Eton, before he went to Austrey. Five persons had sworn that these letters were in his handwriting. Of these the Rev. Mr. Arden and the footman might be dismissed as unworthy of credit. The disgraceful exhibition made by that "respectable clergyman" was fresh in their memory; Colborne, the six-months' servant, dried 150 of his master's letters at the fire between June and August! He said that 50, signed "Washington," were addressed to Mrs. Hanbury Tracy, to Mr. Devereux, and to Mr. Evelyn Shirley, who would swear they never in their lives received from their relative a letter so signed. The two military experts founded their belief on having seen his lordship's signature to two pay lists; the postmaster's daughter did not assist at the post-office. That was the evidence as to handwriting.

The falsehood of these letters was established by internal evidence. Some were dated "Mivart's," where Lord Ferrers had never been in his life; one in 1844 from the Deanery, Bangor, where he had not been since 1840. He bought the conservatory at Staunton in 1842 for £400, and is made to say in 1844 that he is thinking of purchasing it for £1000. He took his seat in the House of Lords on 11th August 1843, and on 11th February 1844 writes that his "good cousin Evelyn" advises him not to take it yet. His sister, Mrs. Hanbury Tracy, whom he is represented as often visiting at Brighton during her illness, had never been there and was in perfect health. His brother Devereux, who is said to have been interviewing Miss Smith in 1844, joined his regiment in Scotland in March 1843 and was not absent a day from that country till March 1845.

As to the £5000 gambling debt, Lord Ferrers never touched a card in his life. Evelyn Shirley's daughter, the victim of the villain "Walker," was an infant six months old! The finger cut by the Rev. Mr. Arden in 1842 is still unhealed in 1844. That Lord Ferrers knew Lord Brougham, that his steward talked of leaving him, that Jessop was his lawyer, that he had a horse called "Zimro," that Evelyn knew Italian or had speculated with Mr. Wilberforce, were all statements equally and wilfully false.

After vainly searching the evidence of Mrs. Smith in quest of the truth, so lamentably lacking in the letters, of which that matron boasted herself the depositary, the Attorney-General asked how, in view of his contention that the whole story was untrue, could the fact be accounted for that letters addressed to Lord Ferrers by the plaintiff were proved by divers respectable persons to have been posted by them at various times and places? The very handkerchiefs therein enclosed are produced by the defendant himself: is he then mad enough to maintain that there was *no* correspondence between them? "Now let us begin to unravel the mystery; we are coming to the third volume." No sooner had Lord Ferrers succeeded to the title than there began to arrive a succession of *anonymous* letters, plainly the production of a lady enamoured. Neither knowing nor caring who his fair correspondent might be his lordship threw most of them in the fire; but fortunately for him four had survived. *These, put to the parents in the witness-box, were identified by them as written by their daughter.* The first letter, dated 19th December 1842, was posted at Derby:—

My Lord,—Strange it may seem to you, no doubt, to receive a note from a stranger, and a lady too; but it signifies little to me, as I know well you will never know the writer of this letter, never see her. Now for what I have to tell you it is this: there is a public ball at Tamworth every Christmas, generally about the 6th or 8th January; go, I advise you, go; there will to my knowledge be a young lady at the ball who I wish you to see and dance with. She is very beautiful, has dark hair

and eyes, in short she is haughty and graceful as a Spaniard, tall and majestic as a Circassian, beautiful as an Italian. I can say no more; you have only to see her to love her, that you must do; she is fit for the bride of a prince. Go, look well round the room, you will find her by this description: *she may wear one white rose in her dark hair.* If you see her not there you will never see her, as she is like a violet hid midst many leaves, only to be found when sought for. . . . Keep your own counsel, my Lord, and deem yourself happy in the idea of knowing one so talented, beautiful, and young. Ask her to dance and fear not. And now I have fulfilled my mission and shall rest in peace, more peaceful, though, did I know that you would meet this bright young girl. If you, like other men, love beauty you will love her. Adieu, burn this letter, and remember she is my legacy to you. You have hurt your hand, I hear; I am sorry. Farewell for ever. ISABEL.[1]

"Do you understand the case now?" asked the Attorney-General. "Have I kept faith with you? Have I redeemed the pledge I gave that however dark and mysterious it might appear I would disperse all the shadows and present it clearly and distinctly to your view?" Here was the very letter proved by the mother to be in her daughter's handwriting, put into the very post-office described; and when other anonymous communications, even containing handkerchiefs, were received by Lord Ferrers, could they doubt that this artful girl, deceiving some, assisted, it was to be feared, by others, had been contriving a scheme of the most arrant falsehood and of the grossest and most scandalous iniquity; that but for various providential circumstances Lord Ferrers would have fallen a prey to the snares with which he was encompassed, his honour blasted, his reputation gone, and his wealth invaded by this infamous attempt to forge and fasten upon him a false engagement. Another letter, dated 5th June 1843, contained the following gems:—

Washington, beloved one, when shall I see you, when behold the form of one dear to me, how dear! . . . You are young, and have

[1] *Proceedings*, pp. 350–351. One would fain believe that Miss Smith borrowed this pseudonym from the heroine of Herman Melville's *Pierre*; but, alas, that other ambiguous damsel was not then begotten.

no father or mother to guide your steps. The world, I am told, is deceitful and wicked; you have no one to advise you, to whisper words of affection and of love, to watch over and be with you. You have some wealth and rank; if these could constitute happiness then you might be happy; but your household hearth is not warmed by affection. Do you never sigh for one to love you, one whom you could put faith and trust in? . . . Alas, in secret I write to you, in secret love you; would we could meet. Do you never visit Staunton? Beloved one, adieu, adieu, ever, ever your friend, MARIE.[1]

In a third letter of March 1844 "Dearest Washington" is informed that despite his persistent silence she cannot banish his image from her heart.

It is, I am aware, unmaidenly thus to write, but you know not the writer. . . . Oh, that we might meet, and that you could love me even as I you! But we dwell far apart—[what about "Zimro"?]—and thus music and flowers and birds must still be loved by me. . . . Perhaps these notes may never even reach you. If you are at home, write and say if you have received a packet of anonymous letters directed to you at Chartley. An envelope with "yes" or "no" written in it will be sufficient. Direct to Miss A. B., post office, Leicester. . . . Washington, you are mine, and you are very dear to me. Let me still think of you, and if you write I shall then have something to look at as yours.[2]

"I think," commented the Attorney-General, "the lady will indeed be *very dear* to Lord Ferrers, for these proceedings will not be conducted without considerable expense to him." This last is dated 1st May 1844 and bears the Tamworth postmark.

MY DEAREST WASHINGTON,—Days even weeks pass on yet hear I nothing from you. . . . How I long to see your face; shall I ever again do so; to hear your voice and see you smile, but perhaps I may never behold you more.

"That is very odd," was counsel's comment, "because May was fixed for the wedding and all arrangements had been made."

Something whispers to me we shall once more meet, be it in lighted

[1] *Proceedings*, pp. 352–353. [2] *Ibid.*, pp. 354–356.

hall or church, or under the shade of the hawthorn tree; we shall meet, though you may not dream you are there holding converse with your anonymous correspondent. But time hastens, and as our carriage passes through the borough from which your second and prettiest name [Viscount Tamworth] is derived, while our horses are baited at the Castle Inn, so shall I post this to you. Dearest Washington, with best wishes for your happiness and future welfare, allow the lady who thus writes to subscribe herself, most devotedly, MARIE.[1]

These letters were written by the plaintiff. Could the jury doubt, apart even from proof of handwriting, that artful and ingenious as she had shown herself to be, she also wrote those attributed to Lord Ferrers? Could anyone after that exposure stand up in a court of justice and in the face of the public maintain such a case? If fatal consequences to the plaintiff followed she had brought them on herself; the stern demands of justice imperatively required their interference for the protection of the defendant.

The evidence for the defence, so far as led, need not detain us. Mr. Evelyn Shirley, Mr. and the Hon. Rosamond Hanbury Tracy, and the Hon. Devereux Shirley, amply confirmed the statements of the Attorney-General, and the indispensable Mr. Jessop said that he had never acted for Lord Ferrers. All five emphatically denied that the letters were in his handwriting. A clerk from Mivart's proved that Lord Ferrers had never stayed at that hotel. At this stage the Solicitor-General, who had been absent from Court for the last two days, intervened. He said he had only that morning seen the four anonymous letters, which took him entirely by surprise. In these circumstances, being unable to account for or explain them, he felt it his duty in the interests of truth and justice to withdraw from the case; the plaintiff would elect to be nonsuited. Mr. Justice Wightman approved; it was quite impossible, he said, to believe that the letters purporting to be written by the defendant could be his. His

[1] *Proceedings*, pp. 356–358.

lordship ordered all the documents to be impounded in court. The plaintiff was nonsuited accordingly, and the case was at an end.

If the Fair Circassian of the letters were again to invite the attention of the law, one would naturally have expected her to grace the dock as the subject of a criminal prosecution. Instead of this, however, on 4th December 1847, before Mr. Justice Cresswell and a special jury in the Court of Common Pleas, Westminster, she resumes her civil rôle of plaintiff, in an action of damages for libel against the *Britannia* newspaper. Mr. Serjeant Talfourd, the friend of Dickens to whom he dedicated *Pickwick*, and Mr. Symons, who must have been strong in the article of faith, appeared for the injured lady; Mr. Cockburn, Q.C., and Mr. Barstow, for the proprietor of the offending journal. The plaintiff, explained the learned serjeant, had lately published a pamphlet, denying the charges brought against her in a recent trial, which was severely commented on in the *Britannia* of 7th November 1846 in a review, headed "Miss Smith and Earl Ferrers," extending to several columns. The libel complained of was contained in the following passages :—

> We will not follow Miss Smith further. Her pamphlet is a curiosity. It may take its place among the monstrosities of literature. It is not equal either in romance or talent to the revelations of Marie Cappelle,[1] but it belongs to the same class, and shows the same kind of perverted ingenuity. But it is for its singularity that we notice it. This girl, though young, is old in the art of deceit, and it is necessary that she should not be deceived as to the opinion that must be formed of her infamous conspiracy, and of the recklessness she displays in coming forth with a string of wretched falsehoods—some avowed, some still concealed—to defend it.
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> . . . . . .

[1] See *Memoirs of Madame Lafarge; written by herself.* 2 vols. London: Henry Colburn, 1841. The energies of this lady had been directed not to the entrapping, but to the interment of a husband. Her vindication, if equally unconvincing, is less brazenly mendacious than that of Miss Smith.

She is to be pitied; but as she is dangerous, those who have the charge of her should be careful to keep her under some kind of restraint and prevent her from exercising her mischievous propensities. It is fortunate for her that the nature of her plot did not require more fatal instruments than those she has employed.

It was admitted by the defendant that the libel in question had been published in the *Britannia*, of which he was the proprietor and publisher. Serjeant Talfourd explained that as the defendant had not pleaded justification for the statements that the plaintiff was a foul conspirator and all but a murderess, he was unable to call Lord Ferrers to give evidence of the true facts. He could only prove the circumstances in which the libel was written and ask the jury to give his client reasonable redress for the injury that had been inflicted upon her. Mr. Thomas Nicklin Smith, father of the plaintiff, was then called. Having admitted paternity, he said that Miss Smith had brought an action against Lord Ferrers for breach of promise, and that she had published a pamphlet dealing with the case, which had been reviewed in the *Britannia*. He had read the article; it related to his daughter. Cross-examined, the pamphlet was published in September 1846. It was entirely her own composition; he merely corrected the manuscript. Mr. Cockburn then addressed the jury for the defendant. The plaintiff, he said, had also been plaintiff in another action: "the most remarkable case ever tried in Westminster Hall since the erection of that venerable edifice, which would be handed down to posterity as one of the *causes célèbres* of Europe." [1] After giving a brief account of those proceedings, counsel dealt with the history of the pamphlet. It was sent to a public journal for review, and the reviewer, satisfied that there had been a gross outrage of public decency and morals: that an action had been brought upon letters proved to be wicked forgeries: had com-

[1] It was later to be eclipsed by the Tichborne case in magnitude of roguery.

mented on the facts in appropriate terms. As to justification, was the defendant to be put to the expense of getting up evidence to afford this lady a chance of vindicating her character? Had justification been pleaded, this action would never have been proceeded with at all. Even should the jury think that the defendant had exceeded the strict limit of his public duty, the plaintiff would be entitled only to nominal damages. Mr. Justice Cresswell having summed up the case, the jury immediately returned a verdict for the plaintiff, damages one farthing. The judge refused to certify the libel as wilful and malicious, thereby depriving the plaintiff of costs.[1]

I have but scant space left for this new "Mystery of Isabel." The pamphlet[2] follows the familiar advice for such as have no case. In her preface, dated from Syerscote Manor, she explains that it is written as the only means of defending herself and a beloved parent from the wanton attack of the Attorney-General. It appears that this innocent and guileless girl was the victim of a vast conspiracy, supported by shameful perjury on the part of all concerned. Only her mother, "than whom a more unsuspecting and artless creature never lived"; Sister Ann, "untainted by the serpent's venom of falsehood and corruption, stamped by the child-like attributes of truth"; and the Rev. Mr. Arden, "the spiritual adviser and bosom friend of two generations of the House of Ferrers"; only these survive, like the righteous men in the Wicked Cities, as saving examples of purity and truth. Scanning her vituperative and mendacious pages to find how a writer so resourceful will encounter the damning fact of the anonymous letters, we see the Haughty Spaniard taking the bull by the horns with appropriate pluck.

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[1] *Times* Report.

[2] *A Statement of Facts respecting the cause of Smith* v. *The Earl Ferrers . . . with an Examination of the Speech for the Defendant of the late Attorney-General, Sir Frederick Thesiger.* By Mary Elizabeth Smith, the Plaintiff. London: John Ollivier, 59 Pall Mall. 1846.

I do not hesitate to say that I wrote the four anonymous letters ; circumstances compel me to acknowledge that they were the productions of my pen. The first was written with the hope of inducing Lord Ferrers to come to the Tamworth ball, as he promised when at Austrey he would meet me at the first ball I went to there, and thus be introduced to my parents. I had only seen him twice since his return, and I could not summon courage to ask him myself to meet me ; I therefore wrote anonymously, thinking that the exaggerated statements I made in that letter would be sufficient inducement to bring him.[1]

The others were written to test the fidelity of her noble wooer. As he afterwards told her he had lit his pipe with them, she did not scruple to deny their existence to Mr. Hamel, " thus casting a stain upon my name which I fear no after event will ever efface : what was meant as a mere girlish frolic has proved a misfortune of the deadliest kind."

As to the Earl's letters, Hamel had conjured her to tell the truth, saying that if afterwards he found anything wrong he would throw up the case, " and leave her without hope to the mercy of the world." Nay, more ; on the eve of the trial the Solicitor-General himself solemnly warned her in the strongest terms that if there were any sort of deception or reservation practised by her, nothing could prevent its detection and the immediate loss of the case. But his client, " secure in her own innocence and the perfect truthfulness of her cause," stuck to her guns : the letters were written by Lord Ferrers. From which two things are plain : that her advisers had their own doubts on the subject, and that the plaintiff had the courage of her opinions.

To account for the otherwise unaccountable behaviour of her late fiancé she does not hesitate to pronounce him mad, and in support of her allegation she gives the following instances of his insanity : (1) " the erection of a gibbet in Chartley Wood for the purpose of hanging in effigy

[1] *Statement of Facts*, p. 21.

Lawrence, the Earl's great-great uncle" ;[1] (2) "the interring of a pet monkey after the fashion of a peer"—the deceased, having lain all night in state, surrounded with waxen tapers, in the great hall of Chartley Castle, "my lord followed his monkey friend to the grave, and beat one of the mourners to make him weep" ; (3) "he had a mock riot too, which the county police were called in to quell" ; and (4) his practice of riddling cinders on a Sunday, "as well as the like amusements proved in evidence at the late trial." Whether these fresh "facts" are the creations of the authoress's fertile fancy, and how far they support her thesis, is for the reader to judge.

Touching the future fortunes of the Beautiful Italian history is silent. Such social memoirs, autobiographies and diaries of the period, etc., as I have been able to consult make no mention of her or her achievement. One would have expected that the gifted damsel, who at nineteen was capable of concocting a romance so strikingly original, would afterwards have made a name for herself in the field of fiction. But if she did develop her remarkable talents in that direction she must have done so anonymously, for I have failed to trace her later works. Unlike the violet of her graceful simile, "hid midst many leaves, only to be found when sought for," she has contrived to baffle my discreet pursuit. I am persuaded, however, that she had a hand in *The Importance of Being Earnest.* You recall how Cecily, worn out by Algernon's entire ignorance of her existence, accepted him on 14th February, bought herself in his name a ring and a bangle, and kept his "dear letters" in a box.

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[1] For an account of the trial and execution of Lawrence Shirley, fourth Earl Ferrers, for the murder of his steward at Staunton in 1760, see Burke's *Celebrated Trials connected with the Aristocracy in the relations of Private Life,* pp. 193–227, London, 1849; and, for good reading, see the book *passim.* Burke's narrative of the present case (pp. 485–505) is confined to extracts from the speeches of counsel, "this most extraordinary case being of such recent date that any comment upon it would be premature and injudicious."

ALGERNON. My letters! But, my own sweet Cecily, I have never written you any letters.

CECILY. You need hardly remind me of that, Ernest. I remember only too well that I was forced to write your letters for you. I wrote always three times a week, and sometimes oftener.

The words are the words of Oscar, but the voice is the voice of "Marie."

THE SECRET OF IRELAND'S EYE:

A DETECTIVE STORY

THE SECRET OF IRELAND'S EYE:

A Detective Story

O, that it were possible we might
But hold some two dayes conference with the dead!
From them I should learne somewhat, I am sure,
I never shall know here.

—*The Dutchesse of Malfy.*

"PEOPLE who like legal mysteries and the arts of the literary detective"—the phrase is Andrew Lang's—can hardly fail to appreciate the Kirwan case.[1] It presents a puzzle sufficiently perplexing to intrigue even a blasé taste, and to stimulate the Sherlockian spirit that sleeps in the bosom of the most blameless of Watsons. It is, in the first place, a trial for murder quite out of the common run. The circumstances of the crime, if crime in fact there was, were at the time unprecedented: the drowning of a wife by her husband; and they remained unparalleled in our annals until the revelations made upon a trial in 1915, when one Mr. Smith was found to have eclipsed the achievement of his forerunner of the 'fifties by drowning no less than three wives in succession.[2] But the quantitative element apart, the earlier case is much the more interesting and instructive. Smith was a mere mechanic, ingenious, if you will, and clever at his job; a capable craftsman enough, but lacking imagination

[1] *Report of the Trial of William Burke Kirwan, for the Murder of Maria Louisa Kirwan, his wife, at the Island of Ireland's Eye, in the County of Dublin, on the 6th September* 1852. By John Simpson Armstrong, Barrister-at-Law. Dublin: Printed by Alexander Thom, 87 Abbey Street, for Her Majesty's Stationery Office. 1853.

[2] *Trial of George Joseph Smith.* Edited by Eric R. Watson. Notable British Trials Series. 1922.

and the sense of style. Instead of making his first success a stepping-stone to higher things he was so stupid as to stereotype his method. Further, none but his counsel, *ex officio*, was ever known to doubt his guilt, whereas many have maintained the innocence of his predecessor. The staging, too, of the respective tragedies differed markedly in scenic effectiveness. Smith's theatre was the domestic bathroom of drab lodgings in mean streets; Kirwan's, a desolate island of the sea. As to motive, Smith was but a footpad, murdering for money; Kirwan's act, if he indeed committed it, was of the passionate cast so tenderly regarded by the law courts of France.

The astute reader will notice that I have safeguarded myself from pronouncing upon Mr. Kirwan's guilt. It was an Irish case, vehemently discussed; and although the passage of some seventy years ought to have cooled the ashes of that old controversy, I am not going to take any risks. Convicted by a Dublin jury, with the approval of two eminent judges of the Irish bench, the prisoner after a three days' trial was duly sentenced to death. The tide of public opinion, which had set strongly against the accused man from the start, then turned in his favour, and as the result of much popular agitation the question was begged in the usual British fashion—how we love a compromise!—the extreme penalty was remitted, and the convict was sent to Spike Island for life. All which pleased nobody and left the subject in dispute precisely where it was before.

Personally, in the matter of alleged judicial errors I am rather sceptical. Miscarriages of justice have, of course, from time to time occurred, owing to the fallibility of the human agents, but this danger is now discounted by the opportunity provided for review by a competent tribunal. It may be that a Court of Criminal Appeal, had such been available, might on the merits have reversed the jury's finding. Certainly, it was a narrow case; the evidence was purely circumstantial and called for very

nice and cautious estimation ; had the trial happened to be held in Scotland, our national *via media* of Not Proven would probably have been followed. In hearing, reading, or writing about these cases I always feel how much there is behind the scenes that one ought to know in order to arrive at a fully informed judgment ; how much that, by reason of sundry rules of the game played by counsel with the prisoner's life for stake, is never allowed to come out in court. Thus in the present instance we know next to nothing of the personality of the man, upon which the solution of the problem so largely depends, or apart from the evidence of a single quarrel are we told anything of his usual relations with his wife. The second " Mrs. Kirwan " is not produced, and on the important question as to the lawful wife's knowledge of her rival's claims, or even of her existence, we have no information beyond the opposed statements of the contending counsel. Relatives and family friends could have dispelled these doubts and also have settled the vital matter of the dead lady's general health and habits : the Crown representing her as a perfectly sound, healthy woman ; the defence, as an epileptic. Again, she is alleged at once to have been a strong and daring swimmer, and not to have been able to swim a stroke ! Upon these and many other points the state of the proof is disappointingly nebulous. The medical evidence, too, is unsatisfactory and inconclusive. The conditions were plainly unfavourable, but surely nowadays science should be equal to giving a more decisive answer.[1] What weighs most with me is the conduct of Mr. Kirwan himself, in the brief glimpses we get of him on the island and after his return to Howth. And those dreadful screams, heard over the water by the five witnesses, re-echo across the years to-day in a very ugly and suggestive manner for such as have ears to hear.

. . . . . .

[1] See the conclusions of Dr. Devon on the medical aspects of the case, p. 222, *infra*.

A mile off the harbour of Howth, in County Dublin, lies the little island with the picturesque name: Ireland's Eye. Visitors to that agreeable watering-place are in the habit of taking boat to the romantic and rocky isle, lying so invitingly in view out in the sea, for purposes "not unconnected," as the newspapers say, with picnics. A ruined chapel of St. Nessan, a Martello tower, a fine stretch of beach, a beautiful and extensive prospect: these form the chief attractions. Upon the seaward side a narrow creek or gully, called the Long Hole, will claim our special attention later. Altogether it is a pleasant spot in which to while away the hours of a summer day, and the last place one would associate with a treacherous and cruel crime.

At 10 A.M. on Monday, 6th September 1852, two persons embarked at the harbour in the boat of a local fisherman named Patrick Nangle. They had with them a bag and a hand-basket, their object being to spend the day upon the island, as they had already done on two or three former occasions. The stout, dark man of about five-and-thirty was Mr. William Burke Kirwan, an artist; the handsome, well-made woman of thirty was his wife, Maria Louisa Kirwan; the bag contained the materials of his art, together with the bathing-costume, cap, and bath sheet of his spouse, a constant and enthusiastic bather; the basket held provision for an exiguous *al fresco* meal. Married for twelve years and without a family, the Kirwans lived at No. 11 Upper Merrion Street, Dublin. They were then staying in summer lodgings at Howth, where they had been for some six weeks; and as they were to return to Dublin on the morrow, this was their last excursion.

A commonplace couple enough, one should say; and yet Mr. Kirwan's domestic habits present on closer acquaintance certain singular features. Though then on holiday it was his custom, in his landlady's phrase, to "sleep out" three times a week, going on these occasions to Dublin and returning to Howth next day. Such

periodic abstentions from the family bosom were not, as one might suppose, due to the exigencies of his profession as an anatomical draughtsman and furnisher of coloured maps in the city. No; during the whole period of his married life Mr. Kirwan had been leading what is figuratively termed a double life. He kept a mistress, one Teresa Kenny, by whom he had no fewer than seven children, and he maintained his Hagar and her brood in a house in Sandymount, a suburb of Dublin, provided her with a servant, and endowed her with the style and title of "Mrs. Kirwan." To what extent his legitimate lady was aware of this redundant ménage, and if she knew of it, how she viewed the pluralistic peculiarities of her lord, there is no proof. Upon this point the prosecuting counsel thus addressed the jury:

> It so happened, or was so managed, that neither Maria Kirwan nor Teresa Kenny had either of them the least notion or idea of each other's existence until a comparatively recent period. . . . These facts, gentlemen, will appear in the evidence; nay, more, with such consummate art was this sytem of double deception carried on, that it was only within the last six months that either of these two women became aware of the fact that each had a rival in the prisoner's affections.[1]

Not only did these facts *not* appear in the evidence, but counsel for the defence in his speech declared:

> The connection alluded to was not a new one; his wife knew of it and and forgave it, and she and her husband were reconciled.[2]

Here, again, no evidence is produced in support of this statement, and we must choose between the *ipse dixit* of learned counsel on each side of the bar. Whether or not an attractive young wife would be likely to acquiesce in such an arrangement is for the reader to judge, according to his experience of human nature.

Despite the famous dictum of Mr. Justice Stephen in the Maybrick case, adultery of itself is not necessarily an

[1] Official Report, p. 5. [2] *Ibid.*, p. 45.

incitement to murder. If it were so, I am afraid our criminal courts would be sadly congested and the hangman would be worked to death. The domestic atmosphere of the Kirwan home, however, is unusually dense, and does need more light than the trial affords. As we shall find, the husband had been heard of late to beat and abuse his wife, and even to threaten her life, acts which exceed the customary amenities of the married state. But more of this later : we are keeping our pleasure-seekers waiting.

They landed below the Martello tower at the north-west corner of the isle, and the boatman was instructed to return for them at eight o'clock—a long day, and a late hour for the autumn season ; the sun set that evening at 6.36. At noon Nangle's boat came again to the island, bringing over another family party, who remained there till four o'clock. During the day these people saw the Kirwans, singly and together, at various times and places, but did not speak to them. When leaving in the afternoon for Howth one of the party, observing that the lady looked intently after the boat, called to her, did she wish to go ashore ? but she answered, no ; the men were to come back for her at eight. So for the next four hours this man and woman remained alone together upon the isle. What passed between them can never be known ; no human eye could see how they employed their time, nor watch the act which certainly brought about the violent death of one of them. But human ears, by a strange chance, heard something of that unwitnessed tragedy. The shadows lengthened, the daylight waned, there was a heavy shower about six o'clock, and still silence brooded over the island, wrapped in the gathering dusk.

At seven o'clock a fishing-boat, making for Howth harbour, passed Ireland's Eye to the west of the isle, within ten perches of the Martello tower. She was a hooker of 38 tons, with a crew of nine men, of whom one only was then on deck, the steersman, Thomas Larkin. It was " between day and dark." As the boat glided by before

a light north-west breeze—the night was quiet and there was no sea—Larkin was startled by a loud scream, "a great screech," from the direction of the Eye. He stood to leeward of the helm and looked towards the island. No one was visible on the shore, though there was light enough in the sky for him to have seen anyone there. In five or six minutes, during which the boat increased her distance, he heard a second scream, but lower; and two minutes afterwards, more faintly, a third. The boat was by then half way to the harbour. The cries were like those of a person in distress; he mentioned the matter at the time to his mates, who being below heard nothing. Night had fallen when they reached Howth.

Other four people on the mainland severally heard these cries. Alicia Abernethy lived at Howth, near the harbour. Her house was directly opposite the Long Hole, a mile off across the water. That evening she called upon her next-door neighbour to ask the time, and was told it was five minutes past seven. She returned, and while leaning over her garden wall, looking towards the Long Hole on the Eye—"it was between the two lights" and she could just see the island—she heard "a dreadful screech, as of a person in agony and pain." She then heard another, not so loud, and next a weaker one. The cries, she thought, were those of a woman. She told her family about them that night. Catherine Flood, employed in a house on the quay of Howth, was standing at the hall door at five or six minutes past seven, when she heard "great screams" from Ireland's Eye. The first was the loudest—"a very wild scream"; the last was cut off in the middle. There was a minute or two between them. John Barrett, from the door of his house at the east pier, heard about seven o'clock "screeches abreast the harbour." Going over to the pier, he heard two or three more; they declined in loudness and seemed to come from Ireland's Eye. Hugh Campbell, "between day and dark," was leaning over the quay wall, when he

heard from the direction of the island three cries, "resembling the calling of a person for assistance"; some three minutes elapsed between the cries, which became successively weaker. *Half an hour later he saw Nangle's boat leave the harbour and go over to the island.*[1] He had often before heard voices from the Eye.

These five persons were all reputable folk of the place, credible witnesses, whose testimony cross-examination failed to shake. So we have the fact clearly proved that about seven o'clock that night there rang out upon that little isle three lamentable screams of terror and distress, so piercing as to be audible a mile off upon the mainland. But Mr. Kirwan, rendered deaf by anxiety for, or indifference to the fate of his vanished wife, or wholly engrossed with his sketch-book in making the most of the failing light, as appears, heard nothing.

At twenty minutes to eight o'clock Patrick Nangle, and his cousin Michael, accompanied by other two men, left Howth harbour as arranged to bring back the pleasure-seekers. The boat reached the island about eight o'clock, and landed close to the tower. It was then getting very dark and they saw nothing of their party; but on their calling out, the voice of Mr. Kirwan replied, "Nangle, come up for the bag." Patrick went ashore; he found Mr. Kirwan standing by himself on the bank and received from him his bag and sketch-book. Patrick, taking these down to the boat, met Michael going up; who, seeing Mr. Kirwan coming towards the boat and finding that he was alone, at once exclaimed, "Where is the mistress?" "I have not seen her for the last hour and a half," was the reply. "Sir," said Michael, "you should have had the mistress here, and not have to be looking for her at this hour of the night; what way did she go?" "She went that way," said Mr. Kirwan, pointing in the direction of

[1] This statement is important as disposing of one of the defence theories as to the cries, namely, that they were those of the boatmen and Mr. Kirwan, calling for his wife during their search for the missing lady.

the Long Hole ; " I was sketching at the time. She left me after the last shower. She did not like to bathe where I told her to bathe, because there was a bad smell there." Michael and Mr. Kirwan then went to look for her along the strand, Patrick going back to the boat. " Maria, why don't you answer ? " called her husband ; " the boat is waiting." Michael too kept calling, " Mrs. Kirwan ! " but there was no response. Their search included the Long Hole, so far as the state of the tide permitted, and *while there Michael could hear Patrick hailing from beside the tower.*[1] Returning, they found he had been equally unsuccessful. " This is a fine job," said Michael, " to be here at this hour of the night ! Where are we to find this woman ? Let us leave the other two men in the boat and we will go round again ; if Mrs. Kirwan comes in the meantime, they can go on the top of the bank and hail us." The three then started to retrace their steps. Descending the rocks into the Long Hole Mr. Kirwan stumbled and fell. At that instant Patrick Nangle cried out that he saw " something white " below.

The Long Hole is an inlet, some 360 feet in length, narrow at the entrance and wider towards the head, enclosed by steep banks and frowned upon by cliffs. From low to high water mark the distance is 163 feet. This area is divided into two channels by a large rock in the middle, 22 feet high, on which the tide rises on the landward side about a foot at high water. The surrounding strand is of coarse gravel, interspersed with lesser rocks, and 12 feet above low-water mark a low barrier of these stretches across the channel, here 28 feet in breadth. Just within this barrier, at the base of the south-eastern side of the gully, is a small rock, 3 feet long and 12 inches high, upon which was found the body of the dead lady.

The tide was out. She lay upon her back, the head

[1] So cries from one end of the isle were audible at the other.

hanging down over the edge against the barrier rock, the arms extended, the knees bent, and the feet in a shallow pool. Her wet bathing-dress was gathered up about her arm-pits, leaving the whole body exposed, and beneath her was a wet bathing-sheet, upon which she partly lay. Her bathing-cap was missing—it was found a fortnight later at high-water mark, the strings tied in a tight knot—but she wore bathing-boots; seaweed and gravel were entangled in her hair. The body was still quite warm and flexible. The mouth was frothing; there was blood upon the face, blood upon the breasts, and blood was flowing from the ears and from other parts. Patrick, for decency, adjusted the bathing-dress, straightened the arms and legs, and tied the sheet twice about her at the neck and knees, all before Michael and Mr. Kirwan, who had been searching the other side of the cove, came up. "Mr. Kirwan said, 'Oh Maria, Maria!'" and told the men to look for her clothes: "we would get them there on the rock"—pointing to the high centre rock before mentioned. Patrick went up and searched as directed, but could find nothing. Mr. Kirwan then went up himself, and coming back in a few minutes with a shawl and "something white" in his hand, bade Patrick go up again, which the latter did. This time he at once found the clothes in a place where he had already looked without result: "I had searched the very same place before, and did not find them." The shawl was then wrapped about the head; what the "something white" was we shall see in the sequel. Patrick next proposed that the boat be brought round for the body, so he and Michael left accordingly. Mr. Kirwan refused to go, and threw himself upon the corpse. It was now about nine o'clock and it took them an hour to fetch the boat; when they reached the Long Hole they found Mr. Kirwan just as they had left him, "lying with his face on the breast of the body." The remains, wrapped in a sail, were carried to the boat by one of the men, who got wet up to the knees during the

The Long Hole, from the West ; high water. The "Middle" rock, centre.

The Long Hole, from the East ; near low water. The "Body" rock, left ; "Middle" rock, right.

(From photographs specially taken by Mr. and Mrs. Cecil Park, Calcutta.)

operation, but none of the others got wet, nor, according to them, did Mr. Kirwan, who took no part.

Arrived at Howth the body of Mrs. Kirwan was taken on a dray to her lodgings and laid on the floor of her room. Mrs. Campbell, the landlady, was short-sighted and much upset: she did not examine it closely; but she saw that Mr. Kirwan's legs were wet, and she helped him to change his stockings. Other three women in the house that night proved that his boots, stockings, drawers and trousers were wet, and that as he sat on a chair by the kitchen fire drying them, water dripped from him on to the floor. These dames—one, Mrs. Lacy, was a sick-nurse of forty years' standing—were ordered by him to wash the body. When they pointed out to him that the police would not allow it to be touched until an inquest was held, the bereaved husband made this remarkable retort: "I don't care a damn for the police; the body must be washed!" So washed it accordingly was, and laid out as for burial before it was seen by a medical man. Whatever the propriety and whatever the motive of Mr. Kirwan's action, there is no doubt that it resulted in the loss of very valuable evidence. The washing was done by Anne Lacy and Catherine M'Garr, one taking the right, the other the left side, while Mary Robinson held a candle. The account given by these women of the appearances noted by them is of the last importance. There was a large quantity of blood on the sail where the lower part of the body had lain. The body was quite limber.

> The face was covered with blood; the blood came from a cut about the eyes, and on the cheek and forehead; the ears were also loaded with blood, which was still running from the inside of them; I spunged and washed the ears, but the blood continued flowing afterwards for nearly half an hour; I had to put a flannel petticoat to prevent it flowing down.[1]

There was a cut on the right breast, which bled freely, and a discharge of blood, which was not natural, from

[1] Official Report, p. 29.

another part. The right side of the body was black from shoulders to feet. The lips were much swollen, the eyes "as red as blood," the neck was slightly twisted. The body was healthy looking and finely formed: "she was a beautiful creature." Thus Mrs. Lacy, whose long experience gives weight to her testimony. Mrs. M'Garr noticed wounds about the eyes, "as if torn." The nose was "crooked," the lips swelled and covered with slime, blood flowed from the ears, the left breast, and from another part. Mary Robinson observed that the eyes were bloodshot and the ears bleeding. These details, though repellent, are essential to a determination of how this lady came by her death.

Between one and two o'clock on the following day, Tuesday 7th September, by order of the Coroner the body was professionally examined. Of distinguished members of the faculty there was then as now no lack in County Dublin, and it seems unfortunate that the duty was entrusted to a medical student, named Hamilton, who stated his qualification as "having been attending lectures during the last six years." He made what he himself describes as "a superficial examination," the result of which will presently appear, and having no reason to suspect foul play, he assumed it to be a case of simple drowning and reported accordingly. The inquiry opened later in the afternoon before Mr. Coroner Davis, the authorities having apparently no suspicion that the death was other than fortuitous. The Nangle cousins were examined. "Mr. Kirwan took an active part in the investigation," said the Coroner at the subsequent trial; "I remember his interrupting one of the witnesses who was giving his testimony; I do not remember what he said to him; I believe the witness in question was one of the Nangles."[1] Now, as appears from the evidence of Patrick Nangle at the trial, just as he was beginning to

[1] Official Report, p. 41.

tell the Coroner about the sheet and the finding of the clothes, he was interrupted by Mr. Kirwan and was "put back," another witness being called. Thus as to these most material facts he "was not allowed to speak."[1] The evidence of Mr. Kirwan was as follows :—

I am an artist, residing at No. 11 Upper Merrion Street, Dublin. The deceased lady, Maria Kirwan, was my wife ; I was married to her about nine or ten years. I have been living with Mrs. Kirwan in Howth for five or six weeks. I was in the habit of going over to Ireland's Eye as an artist. Mrs. Kirwan used to accompany me ; she was very fond of bathing, and while I would be sketching she would amuse herself roaming about or bathing. Yesterday we went over as usual. She bathed at the Martello tower on going over, but could not stay long in the water as the boatmen were to bring another party to the island. She left me in the latter part of the day, about six o'clock, to bathe again. She told me she would walk round the hill after bathing and meet me at the boat. I did not see her alive afterwards, and only found the body as described by the sailors.[2]

It will be observed that no mention was made by Mr. Kirwan of the three screams, and that he did not allege, as was later done in his behalf, that his wife was subject to epilepsy. The five witnesses who heard the cries had not then come forward. Neither the landlady nor the women who washed the corpse were examined. Upon these insufficient premises the jury founded a verdict of accidental death. Unfortunately for the ends of justice, a grave was chosen in the wettest part of the cemetery at Glasnevin, the remains of Mrs. Kirwan were buried there, and the affair seemed in a fair way to be forgotten.

If Mr. Kirwan was innocent of his wife's death he was curiously unlucky in his reputation. The fact that he had a mistress with seven children became generally known and raised a strong prejudice against him in the public mind. He was even said to have committed bigamy with her, but the woman, as appears, was merely a chronic concubine. One Mrs. Byrne, his next-door neighbour in Dublin, did

[1] Official Report, p. 20.

[2] *Ibid.*, p. 41.

not scruple to promulgate his guilt. Indeed, this lady had foretold the event: "Kirwan had taken his wife to some strange place to destroy her"; and being but human she was naturally gratified by the fulfilment of her prophecy. She further alleged that "Bloody Billy," as she impolitely termed him, had murdered her own husband.[1] Two other charges of murder were also brought against Mr. Kirwan in the Dublin press. It was there stated,

(1) "That in 1837, he, Kirwan, burglariously entered Bowyer's house in Mountjoy Street, and carried away Bowyer's property, which he converted to his own use; and that for this offence he was tried before the Recorder, and only escaped upon a point of law."

(2) "That having thus obtained possession of Bowyer's property, he murdered him."

(3) "That in order to keep Mrs. Bowyer quiet, he paid her an annuity of forty pounds a year, blood money."[2]

Whatever be the truth as to these allegations, it is plain that Mrs. Bowyer, like Father Paul of the *Bab Ballads*, did such things "singularly cheap." The other charge of murder related to his brother-in-law, Mr. Crowe. "That Kirwan murdered him, according to the statement of the parties preferring the charges, was beyond all doubt, because he accompanied him to Liverpool, and Crowe was not heard of since."[3]

The Nangles and the nurses talked of the amount of blood they had seen about the body, and a report spread that the deceased had been done to death with a sword cane. Then Mrs. Kirwan had been a Catholic and her husband was a Protestant, facts which in Ireland are still of more than spiritual import, and belief in Mr. Kirwan's guilt or innocence became largely a matter of faith. Finally, the authorities realised that the case was one

[1] *The Kirwan Case: illustrating the Danger of Conviction on Circumstantial Evidence.* Dublin: James Bernard Gilpin, 59 Dame Street, 1853, p. 29.

[2] *Exposure of an Attempt to impute the Murder of Messrs. Crowe and Bowyer to William Bourke Kirwan.* Dublin: James Bernard Gilpin, 59 Dame Street, 1853, p. 3.

[3] *Ibid.*, p. 5.

which called for further investigation, so the body was ordered to be exhumed. On 6th October—thirty-one days after death—Dr. George Hatchell, assisted by Dr. Tighe, made a post-mortem examination, the results of which will presently appear.[1] The coffin was found to be lying in two and a half feet of water, due to the dampness of the soil. Following upon the doctors' report Mr. Kirwan was apprehended on a charge of murder. The warrant was executed at his own house in Dublin, where the police found Miss Kenny and her young brood installed in the dead wife's room.

The trial, originally fixed for November, was at the instance of the accused postponed, and did not open till Wednesday, 8th December 1852, when it took place before a Commission of Oyer and Terminer held at Green Street, Dublin, the presiding judges being the Hon. Philip C. Crampton and the Right Hon. Richard W. Greene. John George Smyly, Q.C., Edmund Hayes, Q.C., and John Pennefather conducted the prosecution; Isaac Butt, Q.C., Walter Burke, Q.C., William W. Brereton, Q.C., and John A. Curran appeared for the defence. The charge against the accused was that on 6th September, at Ireland's Eye in the County of Dublin, he "did wilfully, feloniously, and of his malice prepense kill and murder one Maria Louisa Kirwan," to which he pleaded "Not Guilty." Mr. Smyly, in the absence of the Attorney-General, having opened the case for the Crown, proceeded to call witnesses in support of the indictment.

The first was Alfred Jones, surveyor, who had prepared plans of the *locus* and made certain calculations and measurements at the Long Hole. The place where the clothes were found was about the middle of the central rock, 5 feet 6 inches above the strand, and at high tide

[1] Counsel for the prisoner at the trial complained that the Crown did not call Dr. Tighe; but if that gentleman dissented from the opinion expressed by his colleague, he could have been called for the defence.

1 foot 6 inches out of the water. On 6th September it was high water at 3.30 P.M., and at that hour there would be 7 feet of water over the " body " rock ; at 6.30, 2 feet 6 inches ; at 7, 1 foot 9 inches ; at 7.15, 1 foot 4½ inches ; at 7.30, 1 foot ; at 8, 3 inches ; and at 9.30 the tide would be 2 feet below the " body " rock. The distance from the Martello tower to the Long Hole was 835 yards ; from where Mr. Kirwan was standing when the boat arrived, 792 yards. Cross-examined by Mr. Butt, a person about to bathe might step down to the strand from the rock where the clothes were found.

Mrs. Margaret Campbell told how the Kirwans came to her as lodgers in June, and of Mr. Kirwan's habit of absenting himself three nights a week. During the first month of their stay she noticed quarrelling between them more than once.

I heard angry words from Mr. Kirwan to his wife. I heard him say, " he would make her stop there " ; I heard him miscall her ; I heard him call her a strumpet. I heard him say, " I'll finish you ! " I do not think they had been a month with me at that time. On the same evening I heard her say to him, " let me alone, let me alone ! " Next morning I heard her say to him she was black from the usage she had got the preceding night—across her thighs.[1]

Witness heard a rush in their room, and " thought he beat her." There was no one else in the house at the time except Anne Hanna, who was with witness in the kitchen. Mrs. Kirwan used to bathe every day at the ladies' bathing-place. She was in good health all the time she was at Howth. On the Thursday and Friday before her death she and her husband spent the day on Ireland's Eye, returning home about nine o'clock. Mrs. Campbell then described the bringing back of the body, and the condition of Mr. Kirwan's nether garments, as before narrated. Cross-examined by Mr. Butt, she had heard them quarrelling at different times ; it was on the first occasion that

[1] Official Report, p. 14.

she heard the threatening language; subsequently "they had an odd word now and again"; he never used violence but the once. She had heard Mrs. Kirwan's mother, Mrs. Crowe, caution her not to be too venturesome in bathing.

Anne Hanna, who washed for Mrs. Kirwan, corroborated as regards the first quarrel. She heard the furniture being knocked about, and a man's voice say, "I'll end you, I'll end you!"

Patrick Nangle described the happenings on the island with which we are already acquainted. When he recovered the sail in which the body had been wrapped, he found a great deal of blood on it: "I had to scrub it with a broom." Cross-examined by Mr. Brereton, he was sure the body was not stiff when found; none of the limbs was stiff. There were several scratches about the eyes. The mouth was frothing. Blood flowed from the lower part of the body. The scratches could not have been caused by crabs; there were no crabs where the body lay. Mr. Kirwan did not say, when he (witness) saw him on the bank, that his wife must be in the boat. There was no swell that night to bruise the body. The injuries could not have occurred by scraping on the gravel. The sheet was under the body when he found it; he saw no shawl until he came back with the boat. He did not care how dark it was: he had searched the rock and found nothing, where, after Mr. Kirwan had gone up, he found the clothes. He demanded and got £2 for his trouble that night. No one could have been on the island after four o'clock without his knowledge. Mr. Kirwan could not have got wet in the pool where the feet lay: there was not enough water in it.

Michael Nangle gave his version of the facts, which, with one exception, tallied with that given by Patrick. He had never before heard of ladies bathing at the Long Hole; the rocks there were sharp and dangerous. He looked for the clothes along the strand; Patrick searched the rock. Mr. Kirwan came down "bringing something

white in his hand, like a sheet, and also a shawl." Witness did not see the body closely till the next day; he only saw the face, on which were cuts or scratches. Mr. Kirwan did not get wet while in their company. The water in the Long Hole was as smooth as in a well. During their search Mr. Kirwan seemed "uneasy"—which, in any view, is not surprising.

Michael differed from Patrick only in that he thought the sheet was brought down from the rock by Mr. Kirwan, whereas Patrick was positive that the sheet was beneath the body when discovered, *that it was wet*, and that he tied it twice about the body before Michael and Mr. Kirwan came up. It was dark at the time; Patrick, who examined and handled the body, is more likely to be right than Michael, who did neither.[1] The significance of the wetness of the sheet, as sworn to by Patrick, appears to have been overlooked: however dark it was, that is a matter on which he could not well be mistaken, and had Mrs. Kirwan left the sheet with her clothes upon the rock, it would like them have been dry, for they were found above high-water mark. What, then, was the "something white" selected by Mr. Kirwan from his wife's clothes? Most probably, her chemise; for though we have an inventory of all the garments removed from the rock, there is no word of a chemise, which, as we shall find, was missing, while that she wore one will hardly be disputed.

Thomas Giles, one of the boatmen, corroborated the Nangles to the extent of his knowledge, and Arthur Brew, of the picnic party, told what he had seen of the Kirwans

[1] "Seeing the two men, Patrick and Michael Nangle, and hearing their evidence, we could form no reasonable doubt of the truth of either of them. They are both elderly men. Michael appears older than Patrick, nor is he by any means so observant or so intelligent a man. Patrick Nangle's account of his finding the body with the sheet partly under it, and his tying it across the chest and knees, is perfectly consistent with all the circumstances."—Letter from the Foreman on behalf of himself and ten of the Jury, in *Saunders' News Letter*, 13th January 1853.

when on the island. Then followed the five witnesses who heard the cries. Mr. Butt worked hard to bring out minor discrepancies in their statements, such as, for instance, the number of minutes that elapsed between the several screams, and so forth ; but upon the cardinal points that each *did* hear about seven o'clock three distinct screams, decreasing in volume, coming from Ireland's Eye, their testimony was unscathed.

The next group of witnesses was the women who had washed and laid out the corpse, and who now deposed to the condition in which they found it, as before described. They stuck gallantly to their guns, and Mr. Butt failed to impair the value of their evidence. Mrs. Lacy, the dame of forty years' practical experience, maintained in cross-examination : " There was nothing like the bite of a crab on the body." The hearing was then adjourned.

Next day, 9th December, began with the evidence of Joseph Sherwood, Sergeant of Constabulary, stationed at Howth. He had seen the face of the body on the night of Mrs. Kirwan's death : it was scratched, there was a cut on the right temple, the mouth was swollen, and the eyes were bloodshot. He noticed that Mr. Kirwan's clothes were wet from the knees downward. Upon the arrest of that gentleman at his house in Upper Merrion Street, on 7th October, witness there saw the woman Kenny and her children. He was present when the bathing-cap was found at high-water mark in the Long Hole on 11th September ; the string was tied in a hard knot. Shouts at Ireland's Eye were audible at Howth ; he himself had heard such on the mainland. Cross-examined by Mr. Butt, the bundle of Mrs. Kirwan's clothes did not include a chemise. The clothes were clean and free from bloodstains.

Ann Molloy, the Kirwans' servant, said she had been with them for twelve months. They had no family. Miss Teresa Kenny was then called, but failed to appear. It would have been interesting to have heard her evidence.

William Bridgeford stated that he was the owner of the house in Sandymount occupied by Mr. Kirwan, who became his tenant in 1848. Witness saw there occasionally a woman whom he understood to be Mr. Kirwan's wife. There were children in the house. He had received notes, presumably on business, from the woman, signed "Teresa." Catherine Byrne, Mr. Kirwan's servant at his "home from home," said that a woman lived with him there who was known as "Mrs. Kirwan." They had seven children. A strange lady called once to make some inquiries.[1]

Thomas Alexander Hamilton, the medical student who had seen the body, was next examined. It was, he said, then prepared for burial. He made a superficial examination of the head, but found no fracture. There was a scratch on the right temple, and scratches around the eyes, which were closed; he did not open them; the eyelids were livid. The lobe of one of the ears was cut. There was froth, thin, light, and stationary, upon the mouth. The abdomen was full and firm. He did not examine the body very closely, and saw no blood, or anything else that attracted his attention. Cross-examined, he noticed no marks of violence. He had never before examined the body of a drowned person. He knew nothing at the time to excite suspicion.

Dr. George Hatchell, who made the post-mortem examination thirty-one days after death, was next called. He was present at the exhumation. The coffin lay in two and a half feet of water, which had entered it, and the body was to a certain extent macerated. The scalp showed no marks of violence. He found abrasions or scratches about the right eye. The eyes were injected with blood. The lobe of the right ear was wanting. There were no other injuries about the ears that he could observe, decomposition being too far advanced. The lips were

[1] One would like to have known the date of this visit and the nature of the inquiries, if, as appears, the caller was the real Mrs. Kirwan; but the matter was not carried further.

swollen and very vascular; the tongue was marked above and below by the teeth. On opening the head, the brain was found to be in a semi-fluid state and of a light-pinkish colour. The base of the skull was not fractured. There was nothing remarkable about the trachea or the larynx, and the vertebræ of the neck were not dislocated. On the right breast was a superficial cut or scratch. There was extensive lividity on the right side, due probably to gravitation of the blood. The lower orifices of the body were swollen and their interior very vascular, much more than was usual. The lungs were congested by engorgement of blood; the heart was empty on both sides. He had visited and inspected the *locus*.

From the appearances you observed on the body, are you able, as a medical man, to form an opinion as to the cause of death, and what is that opinion?—I am of opinion that death was caused by asphyxia, or a sudden stopping of respiration. From the congestion in the . . ., from the engorgement of the lungs, and other circumstances, I should say that in all probability the simple stoppage of respiration must have been combined with pressure of some kind, or constriction, which caused the sudden stoppage. I do not think that simple drowning would produce to the same extent the appearances I saw.[1]

Cross-examined by Mr. Butt, the extreme congestion which he had found could not be produced by drowning alone. He had never seen such engorgement caused by simple drowning. There must have been a struggle for life, whether by herself or with another. There was no internal injury to the ears nor any sign of a sharp instrument having been thrust into the body. Bathing on a full stomach might bring on a fit; but he had never heard of a person who fell in a fit of epilepsy giving more than one scream.

Henry Davis, the Coroner who held the inquest on Mrs. Kirwan, stated what took place at that investigation. Cross-examined, he said that in his opinion the scratches on the body were due to the bites of green crabs. In

[1] Official Report, p. 36.

re-examination, he described Mr. Kirwan's behaviour at the inquiry, as already mentioned.

The case for the Crown closed with the reading of Mr. Kirwan's deposition before the Coroner, and Mr. Butt[1] addressed the jury for the defence. He began by begging them to dismiss from their minds anything they might have heard out of doors to the prejudice of the accused. The evidence upon which the Crown asked them to conclude that his wife had died by his hands was (first) the appearances of the body, (second) the suspicion against him and the cries from the island, and (third) the stain upon his character as a husband. It was impossible for the prisoner to bring any evidence as to what had happened. He was not a competent witness, and he and his wife were alone upon the island when she met her death. That the cries heard were hers was merely a conjecture; even if they were so, that was consistent with her death in a fit. He asked the jury to disbelieve the evidence of the witnesses who said they heard the cries on the mainland; Larkin's was the only evidence on which they could rely, but the guilt of the prisoner could not be deduced from it. The cries he heard might have been those of Mr. Kirwan, calling for his wife before the boat arrived. If this was a murder, how did he do it? Did he strangle her? Did he go into the water and drown her? If her death was the result of violence and Larkin heard her death cries, how was it that eight minutes elapsed between the first and second? What was a strong woman doing in the meantime? It was a natural supposition that she had been attacked by epilepsy on going into the water with a full stomach after her dinner,[2] and that she shrieked first, revived afterwards, and shrieked again.

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[1] Isaac Butt (1813–1879), founder of the Home Rule party; Irish bar, 1838; M.P. for Youghal, 1852–65; Inner Temple, 1859; defended Fenian prisoners, 1865–9; M.P. for Limerick, 1871.

[2] "The stomach was contracted and empty," *Post-mortem Report.*—Official Report, p. 37.

With regard to the prisoner's unfortunate connection, that could supply no motive for the crime. It was an old affair; his wife knew of it and forgave him, and it would be monstrous to suppose that because he had been unfaithful to her he was capable of imbruing his hands in her blood. As to the appearances presented by the body, no marks of violence were found; there was no internal injury to the ears or other parts, and drowning in a fit would account for the bleedings and congestion. Dr. Hatchell in his report mentioned "strangulation," but the neck and throat were uninjured. Did he mean by "compression" that she was seized and crushed to death? No force was possible without injury to some vital organ. The cuts and scratches, the Coroner told them, were due to the bites of crabs; or they might have been caused by struggling among the rocks: her hair was full of sand and seaweed. A murderer would not begin by scratching her face, and there were no scratches on *his* face, such as might have been expected. If he had followed her into the sea and drowned her, his arms and coat would have been wet. He might have got his feet wet in the very pool in which her feet lay. "If he loved his wife, as it seemed evident that he did," he who flung himself upon the body, and remained so long alone with it, could not be the murderer.[1] As to the position of the sheet and the finding of the clothes, these rested solely on the evidence of Patrick Nangle, to which no weight should be attached; that of Michael Nangle was upon these points to be preferred. This accusation would never have been brought but for the prisoner's previous character; if they dismissed from their minds that consideration, they should acquit him, and he would leave the court a wiser and a better man.[2]

[1] The case of Dr. Pritchard in 1865 affords a sufficient answer to this argument. During the four months in which he was torturing his wife to death the Doctor habitually slept with her, and she died in his arms. At the funeral, he caused the coffin to be opened that he might kiss her for the last time.

[2] It is noteworthy that Mr. Butt omitted to deal with the evidence of Mrs. Campbell and of Anne Hanna regarding Mr. Kirwan's ill-treatment of his wife

Two witnesses only were called for the defence, Drs. Rynd and Adams, who were present in Court and had heard the evidence. Dr. Rynd said the appearances described pointed to death by asphyxia, or stoppage of the breath and circulation. If caused by external violence there should be manifest marks thereof; there were no such injuries here. All the appearances could be produced by a fit of epilepsy, without any concurring cause. An epileptic might give several screams. Bathing with a full stomach would be apt to cause a fit.[1] Congestion of the brain would account for the bleeding from the ears; general congestion for that from the other organs. Cross-examined by Mr. Smyly, witness admitted he never knew of such bleeding in a case of simple drowning. The blood continued fluid in drowned bodies for a considerable time after death. The amount of congestion would depend on the efforts made by the drowning person to save himself. Counsel referred witness to the notorious case of Burke and Hare, where, although no external marks of violence were visible, suffocation was effected;[2] and asked whether a wet sheet held over the mouth would produce the appearances described, without leaving any marks of violence. Dr. Rynd admitted that it would do so. He had seen Mrs. Kirwan professionally six years before; she appeared to him a fine strong young woman. He had heard, from a person deeply interested in the trial, that her father had died of epilepsy.[3]

Dr. Adams concurred generally in the evidence of Dr. Rynd, but admitted that it was unusual for an epileptic to scream more than once—"the first scream is the rule."

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and his threats against her life. The "don't-care-a-damn-for-the-police" remark at the washing of the body, counsel attributed to a tender solicitude for the remains, rather than the desire to suppress evidence.

[1] Cf. note, p. 208 *supra*.

[2] *Burke and Hare*. Edited by William Roughead. Notable British Trials Series. 1921.

[3] This is about as competent evidence as that of "what the soldier said," which Mr. Justice Stareleigh disallowed in the leading case of *Bardell* v. *Pickwick*.

Cross-examined, a wet cloth over the mouth and nose would produce all the effects of drowning. If a person was held under water it would cause congestion ; the longer the struggle, the greater the congestion. It all depended upon the mouth and nose being under water He had never known a case of accidental drowning where similar bleeding from the organs occurred, nor had he ever heard of a case of epilepsy accompanied by such bleedings. Re-examined, pressure applied to the chest would leave some external marks of violence.[1]

Mr. Justice Crampton—Supposing death to have taken place by forcible submersion, or from accidental drowning, would you be able, from the appearances described, to state to which species of death they were attributable ?—My Lord, in my opinion, no man living could do so.[2]

The case for the defence being here closed, Mr. Hayes replied on the part of the Crown. He told the jury to disregard the rumours which had been circulated to the prisoner's prejudice, and defended the prosecution from the animadversions of Mr. Butt. Having reviewed the accused's connection with the woman Kenny, whom he had represented as " Mrs. Kirwan," counsel dealt with the quarrel and the threats against his wife's life.

Is it reasonable to suppose that a man who had been living with a concubine for ten years, and during all that time gave her his name, while he was beating his legitimate wife at Howth, could entertain connubial affection for the woman he treated so grossly ? [3]

He then described the fatal excursion to the island on 6th September. As to the fact of the three screams, sworn to by five witnesses, there could be no possibility of doubt ; that they were the shrieks of epilepsy was an ingenious suggestion, unsupported by proof.

If there was any evidence that this lady had been previously affected by epilepsy or anything of that kind, there might have been a shadow of

[1] The witness was plainly unacquainted with the evidence in Burke's case, where the contrary was established beyond dispute.

[2] Official Report, p. 64.

[3] *Ibid.*, p. 66.

ground upon which to found the assertion. As the prisoner has forborne to produce such testimony, it is not too much to infer that there was none to produce ; we must take it as proved that the deceased was a perfectly healthy woman.[1]

Why did Mr. Kirwan say nothing about the screams? He must have heard them ; he hadn't seen his wife for an hour ; " and yet this affectionate husband is deaf to these dreadful shrieks." If he knew she were subject to fits he would have run to her assistance, but he is found calmly waiting for the boat, and all he says is, " Nangle, come up for the bag ! " The first mention of the missing lady comes from the boatman, not from the distracted, agonised husband. Two hours after this lady set out to bathe, the search for her is begun in the dark. At first it is fruitless. They would note that Patrick, calling out near the boat, is heard by Michael at the Long Hole : was it too much to suppose that if the prisoner had been at that part of the island he would hear screams from the Long Hole ? The search was renewed, the body was found, and the question now arose, whether, upon all the facts and circumstances of the case, death was caused by accident or by Mr. Kirwan. No direct evidence was possible ; and it was from circumstantial evidence alone that the jury could arrive at a conclusion. How came that sheet beneath the body ? It should have been left high and dry for her use when she came out. The position of the bathing-dress, too, was inexplicable. At seven o'clock, if this lady was then bathing, the tide was going out, and there was 1 foot 9 inches of water over the " body " rock, which was 1 foot high. She was an expert swimmer : was it likely that she should be accidentally drowned there ?

Let us suppose her in this water, 2 feet 9 inches deep ; let us suppose the prisoner coming into the Hole with the sheet in his hand, after taking it from the place in which it was left, ready to put it over her head ; let us suppose she saw his dreadful purpose : can you not then conceive

[1] Official Report, p. 67.

and account for the dreadful shrieks that were heard, when the horrid reality burst upon her mind that on that desolate, lonely island, without a living soul but themselves upon it, he was coming into that Long Hole to perpetrate his dreadful offence ? Would not the consequence have been the fearful shrieks that were heard and sworn to ? If he succeeded in putting her under the water, notwithstanding her vain efforts to rise, struggling with all her energy against his greater strength, can you not imagine the fearful, agonising, and fainter shrieks that men and women from the mainland depose to having heard ? That is not a mere imagination ; it is a rational deduction from the evidence ; and it is for you to say whether, upon all the facts of the case, that might not have occurred, or whether the prisoner lost his wife without any fault of his own.[1]

As to what happened when the body was found Patrick Nangle was a better witness than Michael, who on his own showing saw but little of it. If the deceased left her husband about six o'clock, and if he did not see her thereafter, it was very strange that he should be able at once to know where her clothes lay, in a spot to which he pointed and in which Patrick, who was familiar with the place, had failed to find them. The discrepancy between the Nangles with respect to the sheet is reconciled if what Kirwan brought down from the rock in his hand with the shawl was the chemise. That chemise was not forthcoming : it was for the jury to say whether it was not the " something white " to which Michael referred. With regard to the prisoner's insistence on the washing of the body, he, a gentleman of position and education, was sworn to have said, " I don't care a damn for the police ; the body must be washed," although he knew his wife had met her death suddenly on a lonely island, and that every circumstance as to the state of the body was most important to the ends of justice. Moreover, he was actually warned of the coming investigation. The women who washed the body were positive that the scratches were not caused by crabs.

You will ask yourselves, gentlemen, whether or not these scratches have any reference to the time when the horrible sheet was being put

[1] Official Report, p. 70.

over the face of the deceased; whether at that awful moment she might not have put up her hands to try and remove the sheet, and in endeavouring to do so, tore herself in the manner described.[1]

The bathing-cap, found at high-water mark, with the strings tied tight, was also against the supposition of death by epilepsy or accident. Might it not have been torn off in the struggle that took place before the sheet was thrown over her head? Dr. Adams, with all his great experience, never knew a case of death from simple drowning or epilepsy in which such bleeding occurred, and yet in the face of that testimony they were asked to say that Mrs. Kirwan's death was accidental! If, apart from the medical evidence, the conduct and demeanour of the prisoner, together with the whole facts and circumstances of the case, left no rational doubt of his guilt, it was their duty to find him guilty.

In charging the jury Mr. Justice Crampton referred to the mantle of mystery spread over the case, and explained the nature and effect of circumstantial evidence. Having reviewed the undisputed facts, his Lordship went through the proof at large. That the parties were not living on good terms as husband and wife was proved by the character and conduct of the prisoner. The testimony of all the medical men was, substantially, that the external injuries could not have been the cause of death. While they found no marks of violence, that did not exclude the mode of destruction suggested by the Crown—the forcible application of the sheet—which the doctors admitted would leave no signs distinguishable from those of drowning. All were agreed that the appearances, external and internal, were consistent with either simple drowning or forcible immersion. Dr. Hatchell went further: he thought the congestion greater than could be accounted for by drowning alone. Thus the jury were left by the doctors in a state of much uncertainty. His Lordship then commented on

[1] Official Report, p. 72.

the demeanour of the prisoner on 6th September. The jury would consider whether that was due to genuine grief or was merely affected to avert suspicion. As to the sheet, it was for them to decide which of the Nangles was in error. Both seemed anxious to tell the truth; but it was very dark at the time, a fact which should also be kept in view with reference to the finding of the clothes. Patrick Nangle's account of his being interrupted by Mr. Kirwan at the inquest was corroborated by the Coroner. It was admitted that three cries from Ireland's Eye were heard that evening about seven o'clock. If the screams heard by Larkin came from the Long Hole they must have come across the island, and consequently must have been heard by the prisoner. The credit of the five witnesses who heard these cries was unimpeached. If they were uttered by the deceased lady, what caused them? Undoubtedly, pressing and imminent danger of some kind. Were they the screams of a person seized by epilepsy, or were they due to pain or fear caused by another? The jury would consider whether the character of the cries was consistent with an attack of epilepsy to a person bathing. They would also consider whether this lady, an experienced bather and an expert swimmer, was swimming in 2 feet 9 inches of water when she was seized with epilepsy and gave the screams described. It was impossible that she herself placed the sheet where it was found, as the rock was then covered by water. How came she upon that rock? Was it probable that the tide threw her on it and left her there? Again, did she ever in her life have an epileptic fit? Suspicion must not be confounded with evidence. But if they could not reconcile these facts with the prisoner's innocence, they must not pass them over; if, on the other hand, they were not satisfied that Mrs. Kirwan's death was the result of violence, they would acquit him.

At seven o'clock the jury retired to consider their verdict. Returning in forty minutes, they intimated that

they could not agree, and the Court adjourned till eleven o'clock. On its reassembling, however, the jury were no further forward, and it was proposed to lock them up all night and to take their verdict in the morning. They asked for a little more time, and wished to hear Dr. Adams repeat his testimony, but the judge supposed that gentleman was then fast asleep ; he gave them his own recollection of the Doctor's evidence : that death might have been caused by either simple or forcible drowning. The jury then said they were likely to agree, and in fifteen minutes arrived at a verdict of guilty.[1] The Court adjourned.

When the Court met next day to pronounce sentence, Mr. Butt moved that certain questions of law be reserved for the decision of the Court of Criminal Appeal, namely, whether the evidence of the prisoner having lived at Sandymount with a woman who called herself "Mrs Kirwan" was admissible ; whether the verdict was founded on the testimony of Dr. Adams, a witness for the defence ; and whether the deposition of the prisoner at the inquest ought to have been admitted ? The Court refused the application. Asked what he had to say why sentence of death should not be passed against him, the prisoner, "in a firm and perfectly calm voice," entered at length upon a discussion of the evidence. As he made no fresh statement and merely repeated the facts known to everyone in Court, Mr. Justice Crampton said :

> I am sorry to interrupt you at this painful moment, but you must be well aware that your counsel entered into all these subjects. It is impossible for me now to go into the evidence.[2]

His Lordship then pronounced sentence of death, intimating his own concurrence and that of his learned brother in

[1] It would seem from the letter before cited, written by the Foreman "on behalf of himself and ten of the Jury," that all this trouble was due to the obstinacy on one intransigent juror. How he came to be converted by the doubtful opinion of Dr. Adams does not appear.

[2] Official Report, p. 88.

the rightness of the verdict, and pointing out that there was no hope of pardon on this side of the grave. The prisoner, again protesting his innocence, was removed under escort to Kilmainham Jail, and the Court rose.

The Official Report of the trial concludes: "By order of the Executive Government the sentence was commuted to transportation for life." This result was achieved by the joint endeavours of the Rev. J. A. Malet, who produced, anonymously, the brochure before cited,[1] and of J. Knight Boswell, a Dublin solicitor, who published a pamphlet on similar lines.[2] Both tracts give an *ex parte* review of the evidence and contain a series of declarations by divers persons, more or less relevant to the issue, as to which it may be generally observed that such irresponsible pronouncements, not upon oath, are plainly of less value than statements sworn to in court. I have space but to glance at this new "evidence."

The Kirwan Case crop includes Mrs. Crowe, the mother of Mrs. Kirwan, who said she was in constant touch with her daughter and that Mr. Kirwan was always a most kind, affectionate husband. She makes no reference to the Sandymount establishment, and as regards her daughter's health condescends only upon sleeplessness; she does not mention fits. Her daughter was "very venturesome in the water, going into the deep parts of the sea, and continuing therein for a much longer period than other ladies."[3] Mrs. Bentley said that she knew the deceased intimately. Mrs. Kirwan became aware of the Kenny connection within a month of her marriage, and "exhibited no emotion on the subject." Two years before,

[1] *The Kirwan Case*, p. 200, *supra*.

[2] *Defence of William Bourke Kirwan, condemned for the alleged Murder of his Wife, and now a Convict in Spike-Island: to which, amongst other documents, is appended the Opinion of Alfred S. Taylor, M.D., F.R.S., the most eminent medico-legal writer in the Empire, that "No murder was committed."* Dublin: Printed by Webb and Chapman, Great Brunswick Street. 1853.

[3] Yet Mr. Malet avers that she "could not swim at all."—*The Kirwan Case*, p. 30.

she told the declarant that she had a fit in presence of her husband. Two other ladies severally averred that Patrick Nangle had equivocated about the sheet, and had expressed an intention to "pinch" Mr. Kirwan at the trial. There follows a certificate by ten Dublin physicians and surgeons, proceeding upon the "sworn testimony annexed," that the appearances were "quite compatible with death caused by simple drowning or by seizure of a fit in the water"; and that they were "given to understand that Mrs. Kirwan's father died of a fit eight years ago."[1] The great Dr. Taylor wrote on 20th December 1852, denouncing the verdict: we shall hear his opinion presently. Anne Maher, Kirwan's servant, said that two years before Mrs. Kirwan had a fit in presence of her husband and one Kelly. Arthur Kelly said he had been Kirwan's "assistant" for twelve years; he assisted at two fits, one two years ago and another in June last, just before Mrs. Kirwan left for Howth. *Neither of these declarations was upon oath;* Anne Maher could not write.[2] An uncle and a cousin of the deceased said that she often complained of blood to the head and "confusion of ideas"; adding with delightful, if unconscious humour that she spoke in the highest praise of her husband's conduct and "always appeared in the full and affluent enjoyment of comfort and respectability." Mr. Butt wrote to say that the epileptic theory was not thought of till the second day of the trial, when it was suggested by a medical witness, too late to call evidence in its support—as though he had not had an opportunity of consulting his own client! The remaining volunteers allege that Kirwan had nothing to do with choosing the

[1] These gentlemen had not the advantage of inspecting the body or of hearing the evidence. The "testimony" on which they rely was, as we shall see, *not* "sworn." It is also to be noted that Mrs. Crowe says nothing about the manner of her husband's death.

[2] This is the "sworn testimony" which weighed with the ten physicians. It is remarkable that Mr. Kirwan omitted at the inquest to mention these seizures, and that he did not instruct his counsel to adduce at the trial evidence of such importance.

wet grave, that the Crown expert's measurements at the Long Hole were defective, that the acoustics of the island were other than as represented, and that Mrs. Kirwan once told a servant, with reference to a little boy who came to the house enquiring for " Dada," " that it was Mr. Kirwan's son, and he had two or three more of them." Here endeth *The Kirwan Case.*

Islands would seem to have exercised a baleful influence upon Mr. Kirwan's fortunes. Fatal, in any view of his behaviour, were the hours spent by him upon Ireland's Eye ; and now His Excellency the Earl of Eglinton, the Lord-Lieutenant, whether dissenting from the verdict, or impressed by these declarations, or yielding merely to popular clamour, commuted the sentence to penal servitude for life, and the convict was immured accordingly on Spike Island in Queenstown harbour.[1]

In the other pamphlet [2] Mr. Boswell discusses the controversial points of the case, and publishes among certain statements a declaration by Teresa Kenny. But the second " Mrs. Kirwan " is disappointing : she was plainly in no mood for revelations. She very handsomely accepts sole responsibility for the *liaison,* of which she alleges the wife was all along aware, and says that in 1847 Mr. Kirwan urged her to go to her brother in America, a proposition declined by her in the spirit of Ruth's refusal to forsake Naomi. She was unable to bear witness at the trial, having cut her thumb. Since her protector's arrest she and her children had suffered much persecution at the hands of the righteous. But what the testimony of Teresa lacks in sensation is amply atoned for by the statement that on 6th September there was upon the island another man, one John Gorman, who avouched " that Kirwan was as innocent of the murder as the child unborn " ! Unfortunately this person, having unbosomed himself

[1] An interesting account of life in that place of involuntary retreat may be read in *The Nunquam Papers* by Mr. Robert Blatchford, 1891, pp. 71–80.

[2] *Defence of William Bourke Kirwan,* p. 217, *supra.*

to Mr. Malet, absconded, alleging, with some show of reason, that "he was afraid of being implicated himself," and no trace of him could be found. So the pamphlet is not enriched by his declaration which, like "an affidavit from a thunderstorm or a few words on oath from a heavy shower," desiderated by a certain Chancellor, was not forthcoming. Mr. Boswell has a stronger hand to play in Dr. Taylor. That forensic autocrat had contributed to the medical press an article, reprinted at length in the pamphlet.[1] As this is not a medical journal and not all my readers are medical jurists, I do not propose to accompany Dr. Taylor in his pathological excursus. Those professionally interested may read him for themselves. His conclusions are as follows :

> I assert as my opinion, from a full and unbiassed examination of the medical evidence in this case, that so far as the appearances of the body are concerned, there is an entire absence of proof that death was the result of violence at the hands of another. Persons while bathing, or exposed to the chance of drowning, are often seized with fits which may prove suddenly fatal, although they may allow of a short struggle; the fit may arise from syncope, apoplexy, or epilepsy. Either of the last conditions would, in my opinion, reconcile all the medical circumstances of this remarkable case.[2]

While admitting the force of the moral and circumstantial evidence against the accused, Dr Taylor holds that, "looking at the unsatisfactory nature of the medical evidence of violent death, it would certainly have justified a verdict of Not Proven."

The Doctor, however, was not to have it all his own way. There was published by Professor Geoghegan the result of *his* examination of the same facts, which led him to a very different conclusion.[3] The copy of this pamphlet now

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[1] "Considerations on the Medical Evidence of Death from Drowning, in relation to the case of William B. Kirwan." By Alfred S. Taylor, M.D., F.R.S.—*Dublin Quarterly Journal of Medical Science*, February, 1853; *Defence*, pp. 37–45.

[2] *Defence*, p. 43.

[3] *An Examination of the Medical Facts in the Case of the Queen* v. *W. B. Kirwan.* By Thomas G. Geoghegan, M.D., Fellow and Professor of Forensic Medicine,

before me is interesting as having been presented by the author to Mr. Smyly, Q.C., who conducted the prosecution. Why that learned counsel did not put the Professor in the box is an additional mystery.[1] To me, a layman in such matters, Dr. Geoghegan's arguments upon the medical evidence seem much more cogent and convincing than those of Dr Taylor. His summing up is as follows :

> The preceding considerations, I think, suffice to indicate that the entire series of medical facts leads to the following conclusions : (1) That the death of Mrs. Kirwan was not the result of apoplexy, or of epilepsy, nor yet of epileptic or of suicidal drowning. (2) That the combined conditions of the body (both external and internal) were incompatible with drowning, unattended by other violence. (3) That the appearances observed may have been produced by strangulation alone, or combined with compression of the chest, or with partial smothering. (4) That they are also consistent with a combination of the preceding mixed or simple process of strangulation, with drowning ; the submersion not having been continuous from its commencement.[2]

That Dr. Geoghegan was in the better position to form a judgment would appear from the following circumstances : he had been consulted by the Crown at an early stage of the case, had personally inspected the *locus*, and heard the whole trial, none of which advantages was enjoyed by Dr. Taylor. Further, he ascertained from witnesses who had seen the body certain conditions not elicited in evidence. From observations made by him at the Long Hole Dr. Geoghegan believed that the deed was done at the landward side of the " body " rock, in shallow water ; the presence of seaweed and gravel in the hair favoured that view, and there would be less chance of detection from wetting of

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Royal College of Surgeons, Ireland ; Surgeon to the City of Dublin Hospital, and the Hospital for Incurables ; Hon. Memb. Nat. Hist. Soc. Montreal, etc., etc. Dublin : J. Fannin & Co., 41 Grafton Street. 1853.

[1] The chief medical witness for the prosecution, as appears, had not risen to his precognition : " Dr. Hatchell's testimony, I will admit, did not come up to what the Crown had been led to believe and expect."—Mr. Hayes' address to the jury. Official Report, p. 65.

[2] *An Examination of the Medical Facts*, etc., pp. 16-17.

the perpetrator's clothes. "The arrangement of the deceased's bathing-dress, and of the sheet beneath her, with the orderly position of the body, seem clearly to shew that wherever death may have occurred, the corpse was placed subsequently on the rock."[1]

Actuated as I always am by a laudable desire to give the reader full value for his money, and believing that the opinion of a modern authority on forensic medicine might prove helpful, I consulted, unprofessionally, my friend Dr. Devon, who was so good as to make a careful study of the whole medical phenomena, and to favour me with his conclusions. Of the competency of Dr. Devon to pronounce upon the question it would be impertinent to speak.[2] His report is too long for quotation here, and I must be content to quote one pregnant paragraph :

In this case it was suggested that deceased had an apoplectic stroke ; but there was no evidence in the brain of any hæmorrhage. Syncope was also put forward as a cause of death ; but the appearances found pointed to death from asphyxia. Epilepsy was also advanced as a cause, with as little evidence to support it. Granting however that deceased fell into the water either from an epileptic or a fainting fit, and there was drowned, how could she have sustained the injuries she had received and be found lying on her back ? If she had fallen forward against projecting rocks or stones, might she not have cut her face and breast and bruised her right side ? Possibly ; but if she fell *forward* and got injured and drowned, how did she fall *backward* on a sheet, with her clothes up under her armpits ? I am unable to imagine any accidental or suicidal drowning in which the deceased would be found in the position and with the injuries of Mrs. Kirwan. And how might it have occurred ? If the sheet on which she was found lying had been put round her when she was alive, in some such way as it was put round her dead body before it was removed, she could easily have been submerged in shallow water. If she had been shoved in from behind, the injuries might have been received from the rocks or stones in the bed of the water. There was no evidence of throttling and there were no injuries on her back. The

[1] *An Examination of the Medical Facts*, etc., p. 18.

[2] James Devon, F.R.F.P.S.G., H.M. Prison Commissioner for Scotland ; for eighteen years Medical Officer, H.M. Prison, Glasgow, and Medico-Legal Examiner for the Crown.

body seems to have been taken to the place in which it was found, and in the process the clothes might have been drawn up to the armpits. It was a simple murder, clumsily carried out. If the body had been left in the water there would have been less room for suspicion, but it is a common thing for people under emotional stress to get exhausted mentally and to behave with a degree of stupidity that is amazing.

Who shall decide when doctors disagree? Dr. Taylor asks "whether any amount of moral evidence can compensate for a deficiency of proof of the cause of death?" But though medical opinion be thus divided some weight must surely attach to other facts and circumstances indicating foul play, hardly to be reconciled with death from natural causes.[1] If so, the secret of the island would seem to be rather an open one after all, and like the song the Syrens sang, not beyond all conjecture.

. . . . . .

A quarter of a century after the trial the following paragraph appeared in the Dublin press:

AN OLD TRAGEDY REVIVED.

More than twenty-five years ago a man named Kirwan, who lived in Upper Merrion Street, and had official employment as a draughtsman, was convicted in the Courthouse, Green Street, of the murder of his wife at Ireland's Eye, under circumstances of peculiar atrocity and horror. Sentence of death was pronounced; the gallows was prepared, the hangman retained, and the rope ready for its work; but at the last moment powerful influence of a very special character was successfully exerted, to rescue the culprit from the grasp of the executioner. Kirwan's death sentence was commuted to penal servitude for life, and after a short stay in Mountjoy Prison he was sent to Spike Island, where he spent nearly twenty-four years as a convict. Last week he was liberated, on condition that he should leave the country, and he has sailed, *via* Queenstown, for America. One who saw him

[1] Three years later, in the celebrated Palmer case, where the medical battle was between strychnia and tetanus as the cause of death, Dr. Taylor, chief expert for the Crown, failed to find in the body any trace of the strychnia which Professors Herapath and Nunneley maintained must, if administered, have been present. Yet the "moral evidence" of Palmer's guilt turned the scale. As that gentleman himself philosophically remarked, "It was the riding that did it."

just before his departure describes him as an aged and very respectable-looking gentleman, white-haired, bent, and feeble, and with nothing in his aspect or manner to suggest that he was guilty of the awful tragedy on Ireland's Eye.[1]

Some further particulars are furnished by Mr. M'Donnell Bodkin, K.C., in his recent account of the case,[2] on the authority of the late Dr. O'Keefe, formerly prison doctor at Spike Island, who "accompanied Kirwan when, on his release, as the last prisoner on Spike Island (before it was turned to its present use), he proceeded to Liverpool, whence he sailed to America, with the intention of joining and marrying the mother of his children, whose name figured so prominently at his trial."[3] A reunion sufficiently remarkable, whatever view you take of the mystery. The local tradition that a venerable and flowing-bearded stranger, who some years afterwards visited Ireland's Eye and remained wrapped in contemplation of the Long Hole, was Mr. Kirwan, surveying the scene of his adventure, may be dismissed as legendary.

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[1] *Freeman's Journal*, 3rd February 1879.

[2] *Famous Irish Trials*, Dublin: 1918. The list of *errata* appended to this volume, though formidable enough, does not include the learned author's repeated statement that no one reading the evidence can have the faintest doubt of Mr. Kirwan's innocence.

[3] *Ibid.*, p. 128.

PHYSIC AND FORGERY:

A STUDY IN CONFIDENCE

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A STUDY IN CONFIDENCE

> "Friend Plain Talk, that epitaph will do very well. Nevertheless, one short sentence is wanting." Upon which, Plain Talk said it was too late, the chiselled words being so arranged, after the usual manner of such inscriptions, that nothing could be interlined. "Then," said Old Prudence, "I will put it in the shape of a postscript." Accordingly, with the approbation of Old Plain Talk, he had the following words chiselled at the left-hand corner of the stone, and pretty low down:
>
> "The root of all was a friendly loan."
>
> HERMAN MELVILLE: *The Confidence-Man.*

WHEN I was a small boy in Edinburgh the Sunday afternoon walk with my people was a weekly institution. We were Scottish Episcopalians—unlovely label—and as such free to enjoy fresh air and exercise even on the Sabbath. My Presbyterian contemporaries lived under a sterner rule. After a solid mid-day meal, they either dozed away the day of rest over an old volume of *Good Words* or were haled, flushed and irritable from the feast, to indigestive slumber at afternoon worship. I remember once, while summering with Free Kirk friends at the easterly fishing-village immortalised as the scene of the incomparable *Lantern-Bearers*, being an enforced partaker in these postprandial rites. The sermon, as I recall it, was upon an episode in the career of Abraham, involving his dealings with a damsel named Keturah, a subject as to which my maturer judgment suggests that the preacher was unhappily inspired. But it was not the backsliding of the patriarch that moved me, so much as the intriguing appellative of his handmaid; the name struck me as somehow ludicrous, and its frequent recurrence in

the discourse, with a prolonged emphasis on the second syllable, soon reduced me to a state of suppressed laughter such as only youthful blood-vessels could safely have withstood. This unseemly levity of mine, painful to my good hosts, was by them imputed to my prelatic upbringing.

Sometimes our hebdomadal strolls had for their objective a certain suburban cemetery, a well-ordered dormitory of the dead, commanding from its terraced heights a wide and pleasant prospect. But I was not interested in the view ; I liked the tombstones, and never ceased to marvel at their chaste design and infinite variety. Here were no harsh and grisly emblems of mortality, such as affright the young visitor to our city graveyards, no grinning skulls and cross-bones, no skeleton Deaths with painfully realistic darts. These Victorian Angels were perfectly genteel and ladylike, yet I thought their marble pinions but ill-adapted for celestial duties. The fat stone Doves, too, that perched so substantially upon tablets dedicated to the smaller tenants, how did they contrive to wing their lapidary flights ? Although I was told that all the inhabitants were now on an equality, I chiefly regarded those who were handsomely housed in massive and imposing structures, preferring them to the occupants of meaner monuments. I had never heard of Mr. Shandy and knew nothing of his theory of names, but the inscriptions on the headstones appealed to me, and for the more striking and suggestive I would invent appropriate legends. Certain graves that in later years I visited with interest—those, for example, in which the victims of Dr. Pritchard and of M. Chantrelle await the calling of their testimony at the Great Assize—I then passed by unnoticed ; but there was one that caught my fancy by reason of the arresting name of its proprietor : Dionysius Wielobycki. Who was he, this man of alien race, and why did he lie here among these kindly Scots under a designation so outlandish ? [1]

[1] The full text of the inscription is as follows : " In Memory of / Dionysius Wielobycki, M.D. / Born in / Byten, Volhynia, Poland / in 1813 / Died

Surely some story must attach to such an one: a mysterious story was, to speak medically, indicated; but I was at a loss to find any that satisfied me. And behold, in the fullness of time I chanced upon the veritable tale, which if less sinister than my young imagination conceived, is yet sufficiently curious to justify recital.[1]

The year 1857 is notable in the judicial annals of Scotland as that in which Lord Advocate Moncreiff contended for ten summer days in the Justiciary lists with Dean of Faculty Inglis, before Lord Justice-Clerk Hope as umpire, the stake being the life of Madeleine Hamilton Smith, of attaching memory. Everyone knows how the splendid advocacy of Inglis saved the fair neck of that engaging pannel from the noose which Justice had prepared for it, an escape merited at least by the owner's coolness and pluck. Fewer students of these matters are aware of an earlier duel in January of that year between those two great counsel before the same judicial referee, when the brilliant powers of the Dean were exerted in vain and the Advocate secured a conviction. But a middle-aged physician who had forged a patient's will was plainly a less inspiring client than a beautiful damsel of nineteen who, with a skill and perseverance beyond her years, had freed herself by scientific means from an embarrassing entanglement. It has been said, I know not on what authority, that the Justice-Clerk being notoriously a good judge of feminine charms, the Dean advised Miss Madeleine, who had a neat foot and an undeniable ankle, to keep those assets well in view of the Bench at the trial, the crinoline of that day affording, as may be seen in old pages of *Punch*, special facilities for so alluring a display. The advice of

in Edinburgh / 16th November 1882 / Erected by / Lady Felice / Baroness Wielobycka."

[1] No separate account of the case, so far as I am aware, was ever published. For the facts, as narrated, I have relied on the reports of the trial in the contemporary press: *Scotsman*, 10th January 1857; *Edinburgh Evening Courant*, 9th and 10th January 1857; and the official record in Irvine's *Justiciary Reports*, ii. 579–583, 1858.

counsel was followed with the happiest results for all concerned. That the turn of an ankle may powerfully affect its owner's fate we have further proof in the case of Thomas Griffiths Wainwright who, as Hazlitt relates, when asked how he had found it in his heart to poison Helen Abercromby, his gentle and confiding sister-in-law, replied with a shrug of his sensitive shoulders : " Upon my soul, I don't know, unless it was because she had such thick ankles ! " In the present case, however, poor Dr. Wielobycki, for all the good *his* ankles could do, might as well have had a pair of wooden legs. " A bonny lass," observed that profound philosopher, Mr. James Ratcliffe, *à propos* of Effie Deans's chances of acquittal, " a bonny lass will find favour wi' judge and jury, when they would strap up a grewsome carle like me for the fifteenth part of a flea's hide and tallow, damn them ! "

Born, as we learn from his tombstone, at Byten, Volhynia, Poland, in 1813, Dionysius Wielobycki, a political refugee from that explosive little country, came to this country in 1839. He took his degree of doctor of medicine at Edinburgh in 1843, his thesis being " On Plica Polonica." His brother, Severin, who had graduated at the same university in 1841, was in practice in London. These facts appear in the medical directories and registers of the day [1] ; from the evidence at the trial we know that Dionysius, before settling in Edinburgh as a homeopathic physician, spent some months in Hawick. Pursuing in the pages of old Edinburgh directories his professional and social progress, we find the first trace of him in 1846, when his address is given as No. 25 Montague Street, on the south side of the city. By 1849 he had risen to a New Town residence, No. 59 Queen Street, where he lived till 1851, when he removed to No. 55, of which he became proprietor. There he was living at the time of his arrest in 1857. For the next fourteen years the bearer being, as Cousin Feenix

[1] Communicated by Professor Harvey Littlejohn.

would say, "in another place," the name of Dr. Wielobycki disappears from the Edinburgh Directory; but in 1871 he turns up again at No. 3 George Square, where apparently he resumed practice, until he retired for good in 1882. After that date his permanent address is the Grange Cemetery.

The Polish doctor was, as appears, a popular physician with a large practice, yielding him on an average £1200 a year—in those days a handsome income. As a homeopathist and a Knight of the Golden Cross (*Virtuti Militari*) he cut a conspicuous figure in the medical circles of the city. But although a fashionable physician, the Doctor was not above casting a professional fly in suburban waters, and none of his fine patients, as we shall see, had such an influence on his fate as an obscure family in Portobello.

In 1852 there flitted to that watering-place from Galashiels an aged woman named Mrs. Darling, with her three surviving children, Thomas, Margaret, and Isabella. The reason of their removal was, they alleged, twofold: because the town boys threw, presumably according to the season, stones and snowballs at their door, and because they disliked the advent of the railway. So in Rosefield Place, a row of quaint cottages off Brighton Place, hard by the station, our emigrants, unmolested by the more civilised youth of Portobello and indifferent to the proximity of passing trains, found at No. 1 a peaceful haven. The mother falling sick, the great Dr. Wielobycki was summoned from town; but despite the fact that, to the high satisfaction of the neighbours, the carriage of that distinguished practitioner might daily be observed in their sequestered quarter, the old woman, unconscionably, did not recover. Her three children were all well-stricken in years; Isabella, the youngest, was sixty. She appears to have been the only one of any mental capacity, and that to but a limited extent. It was her custom to write their letters, and even to sign their names for them when required. The management of their affairs had long been in the capable hands of

Mr. William Rutherford, writer in Galashiels, who looked after their investments, and through whom they received the income. "When they left Galashiels," says that gentleman, "they had £4200, and a house in Edinburgh, which they sold for £375." Their old age was thus comfortably provided for, and so thrifty were their habits that they contrived to save out of income some £50 per annum. They were simple, homely folk, and in all business matters relied on Mr. Rutherford, in whom, justly, they had absolute confidence. On their removal to Portobello he continued to act for them as before.

It was therefore with considerable surprise that on 19th November 1855 Mr. Rutherford received from Thomas Darling a letter, written by Isabella, withdrawing their whole business from his agency in favour of "a gentleman who will in a few days open a correspondence on the subject." This was followed on the 24th by a letter from Dr. Wielobycki, intimating that by request of Thomas he had undertaken the sole management of the family's affairs, and telling him to forward any cash in his possession, to realise the investments, and to deliver the title-deeds of the house in Salisbury Street, Edinburgh, all as belonging to his clients. Mr. Rutherford went at once to Portobello to learn the reason for this extraordinary step. There he was told that "they [the Darlings] wished to put all their money into the hands of one gentleman," who had promised them a higher rate of interest. The financial expert in question was, he ascertained, Dr. Wielobycki. Mr. Rutherford pointed out the impropriety of a physician intromitting with his patients' monetary matters, and said that however competent he might be in his own profession, Dr. Wielobycki was not a man of business and should not be employed as such. But no argument he could use availed to affect their faith in the Doctor's *flair* for finance, and not unwarrantably rather sore, Mr. Rutherford proceeded to Edinburgh to interview the pecuniary scientist. Interrogated as to his intentions, Dr. Wielobycki stated how he

proposed to administer the trust: "He could get 10 per cent. from a Scotch Duke on heritable security." Mr. Rutherford replied that the accommodating nobleman must be a very needy one, as $3\frac{1}{2}$ per cent. was the current rate of interest on such loans. The Doctor then amended his statement: the borrower was "not a Scotch Duke, but a Scotch Duke's factor." Struck by something equivocal in the good physician's manner, Mr. Rutherford with prophetic insight remarked, "I believe you are quibbling; you are going to deceive these people!" Whereupon the Doctor "got into a great passion and said he was a Pole and a gentleman," and Mr. Rutherford left the house. On 12th December he received from Thomas Darling, in Isabella's handwriting, a letter ordering him, in threatening terms, to send all their money to Dr. Wielobycki without further delay. The adoption of this minatory tone to a trusted friend of old standing bespoke, in the fullest sense of the term, an alien influence. Mr. Rutherford, who had only hesitated in his clients' interests, agreed to give up the agency, but stipulated that he would not deliver the cash and securities except to a respectable agent. The Doctor then employed Mr. F. H. Carter, accountant in Edinburgh, to arrange the transference, and there for the time the matter rested.

Thomas Darling died in April 1856. By his will, which had been prepared by Mr. Rutherford, he left his property to his two sisters, Margaret and Isabella. Though Mr. Rutherford, after handing over the papers, etc., held no further communication with Portobello, he continued to act for the children of two deceased Darling sisters, Janet and Helen. On 16th October Margaret died intestate, so he wrote to Mr. Carter, intimating a claim on behalf of his clients to participate in their aunt's succession, and asking for a state of her affairs. Dr. Wielobycki, having learned of this claim, wrote to Mr. Carter on 27th October that he had consulted Isabella, who begged him to get an opinion from the best counsel as to its validity. "Please also," he

wrote, "to disregard all remonstrances and demands made by Mr. R. on you or me until the opinion of our counsel is obtained." Mr. David Wight, W.S., was accordingly instructed by Mr. Carter to prepare a memorial for the opinion of the Solicitor-General (Edward Maitland) and of Mr. Graham Bell, advocate, as to whether under the settlement of Thomas, Isabella succeeded to Margaret's whole estate, or whether the claim of the dead sisters' children to a share was good. On 3rd November each of the learned counsel delivered an opinion in favour of the children's rights.

Tuesday, 4th November, is an important date in the case. On that day Dr. Wielobycki called upon Mr. Wight at his office, No. 11 Young Street, and introduced himself as the bearer of a letter from Miss Isabella Darling, addressed to Mr. Wight, in the following terms :—

1 Rosefield Place, Portobello.
4 November 1856.

Sir,—Being informed by Mr. Carter, accountant, that you are employed by him to ask the opinions of a counsel regarding the validity of my late brother Thomas Darling's disposition, which was made in favour of my late sister Margaret and myself, with a right to equal shares of his property; and knowing that Mr. Rutherford, writer, of Galashiels, not finding in Mr. Carter's office my late sister's will, which I have found amongst her papers and which is written in her own handwriting, dated 21 August 1856, has shown unscrupulously intentions to annoy me by bringing forth presumptuous claims of some of his clients, I beg you therefore to suspend all further proceedings with the counsels, and inform Mr. Rutherford on the subject without delay.—Sir, I am yours, ISABELLA DARLING.

Two things struck Mr. Wight: the peculiarly apt discovery of the will, and this business-like communication from a person of Isabella's condition. Dr. Wielobycki then triumphantly exhibited the deed itself, which was as follows :—

I, Margaret Darling, residing at No. 1 Rosefield Place, Portobello, having along with my younger sister, Isabella Darling, by the disposition

of our late brother Thomas Darling, a full right to the possession each of one half of his property left us by him, and for the love, favour and affection which I bear to my sister Isabella, dispone, give, and bequeath her solely and to the exclusion of everybody else, all goods, effects, debts, furniture, subjects, and property of every description which may belong to me at the time of my death: In witness whereof I have subscribed these presents, written by myself, at Portobello this twenty-first day of August, eighteen hundred and fifty-six. MARGARET DARLING.

Mr. Wight rubbed his eyes: here was an illiterate old woman who could frame a settlement in technical terms as well as if she had been bred a Writer to the Signet! He describes as suspicious his attitude towards the document, which he handed back without remark to Dr. Wielobycki, who asked him to communicate to Mr. Rutherford the fact of its discovery, conform to Isabella's instructions. On the 6th the Doctor returned with the will for the purpose of having it recorded, and it was sent by Mr. Wight to the Record Office. On the 10th Mr. Rutherford came to Edinburgh to inspect the lucky *trouvaille*, which he examined at the Register House and at once pronounced to be a forgery of Margaret's writing by Isabella—he was familiar with their respective hands. Later, while in Mr. Wight's office discussing the deed, the two lawyers were joined by Dr. Wielobycki who, despite his triumph, was disposed to be magnanimous, and greeted Mr. Rutherford with effusion. But that gentleman declined his proferred hand. "He asked me what I wanted," says Mr. Rutherford, "and I said I wanted money. He said, 'We all want money, if we could get it; but you can't get it, for there's a settlement.' I said, 'The settlement is a base forgery,' and I accused him of having something to do with it. He said it was not in his handwriting, and I said I knew that as well as he did; but I said, 'You have had a great deal to do with this document, and so much have you had to do with it that I think it is very likely both you and Miss Darling will be punished.'" "Are you aware that you put yourself and this poor woman in the position

of both being transported?" is Mr. Wight's version. Whereupon the Knight of the Golden Cross (*Virtuti Militari*) rejoined, "Do you mean to frighten me?" There is a venerable and flowing-bearded proverb which asserts that every man at forty is either a fool or a physician; it was the misfortune of Dr. Wielobycki to figure in both capacities. He dropped the will like a red-hot cinder and proceeded to discuss terms for the settlement of the children's claims. Mr. Rutherford insisted on £1500, being two-thirds of Margaret's estate, and the Doctor undertook to see Isabella and advise her to settle the matter on that footing. After Mr. Rutherford's departure Mr. Wight remarked that the will must have been drawn by a lawyer, but the Doctor explained that he had himself furnished Isabella with a form. He left Mr. Wight under the impression that he was privy to the forgery.

On the 11th Dr. Wielobycki called to say that Miss Darling agreed to pay, and Mr. Rutherford was informed that the enemy had capitulated. "On the Monday afternoon," says Mr. Wight, "he admitted he had been accessory to the fabrication. I said sneeringly, 'You must have got a will made in your own favour!' and he said he had already got one." This document, as afterwards produced, was as follows:—

1 Rosefield Place, Portobello.
2 May 1856.

Dear Sir,—It having been our late brother's Thomas Darling's and our own sincere wish during his life to entrust you with a full management of our money affairs during our lives, we now jointly beg and authorise you to take care of our funds henceforward and all along by investing them in your own name according to the best of your means and disposition to me and my sister Margaret, both of us stating hereby solemnly the express wish of our late brother Thomas Darling as well as our own wish and will of the whole of our funds and property to become yours after our death.—We are, etc.

Margaret Darling.
Isabella Darling.

To Dr. Wielobycki,
55 Queen Street, Edinburgh.

In addition to its other remarkable features, this "will" presents the further peculiarity of having been written by Isabella to Dr. Wielobycki's dictation after the death of Margaret.

On 12th November Dr. Wielobycki met by appointment Messrs. Rutherford, Carter, and Wight at the latter's office, and stated that he had been empowered by Miss Darling to settle, subject to payment of the debts due by the deceased, which was deemed reasonable. Asked what these debts were, the Doctor presented a note of his fees for medical attendance on Margaret, amounting to £231. After some debate it was agreed that the professional labourer was worthy of his hire, and Mr. Rutherford said he would accept £1200 in full of his clients' claims, for which the Doctor gave his own cheque on the Royal Bank.

A bird of the air must have carried word of the matter to the authorities, for on 13th November Dr. Wielobycki received from the Procurator-Fiscal a pressing invitation to call at his chambers and to produce the settlement of Margaret Darling. The Doctor returned the citation, endorsed by him as follows :—

> Dr. Wielobycki has been suddenly called to Glasgow professionally this morning at 5 o'cl. & was obliged to start by the first train 7.30—has nothing to declare further, but that the document wanted was demanded back by Miss Darling & it was destroyed by herself—as it was of no use. Dr. W. will however call if wished on his return from Glasgow. Friday, 7 a.m.[1]

Arrested on 27th November on a charge of forgery, Isabella made upon examination what is popularly termed a clean breast, and the good physician's game was up. On 3rd December the polite breakfast tables of Auld

[1] One would fain have hoped that the Doctor had been called in to consult with his ingenious colleague Dr. Pritchard; but, alas, that notable physician did not commence practice in Glasgow until 1860. The fact that he was a homeopathist need have been no obstacle, as Dr. Pritchard would have met Beelzebub in consultation if money were to be made by doing so, and Dr. Wielobycki was not, as we shall find, unduly scrupulous where cash was concerned.

Reikie were startled by the following announcement in that morning's papers :—

Apprehension of Dr. Wielobycki.—We understand that Dr. Wielobycki, a homeopathic physician in extensive practice, residing at No. 55 Queen Street, has been lodged in jail for further examination on a charge of having some concern with a forged will, which it is alleged has since been destroyed. It is stated that Dr. Wielobycki had attended professionally two old ladies, Misses Margaret and Isabella Darling, residing at Portobello, and that some time ago they had given into his hands on loan at interest the whole of their property, amounting to about £4000. This property their brother, Mr. Thomas Darling, left equally between them, but to the survivor in fee ; the effect of this provision being that had one of them died before him, the other would have been entitled to the whole property, but as he died first, it vested equally in the two sisters. Miss Margaret Darling died recently without having made a will, and her share of the money would have fallen to Miss Isabella and to the children of two sisters who resided in Galashiels but who have been dead for some time. The allegation is that a will was fabricated by which the whole of the property was left to Miss Isabella, Dr. Wielobycki still retaining the charge of it. On the will being shown to the parties interested they declared it to be a forgery, and it is stated that it has since been destroyed. We learn that the surviving Miss Darling is about to raise a civil action against Dr. Wielobycki for the recovery of her portion of the money.[1]

From the accuracy with which the facts are set forth we may assume that this paragraph was inspired.

The Doctor's last voluntary appearance at the Sheriff Court was after Isabella had been committed for trial, when he found bail for her to the extent of £300, which he paid by his own cheque. One is reluctant to examine too closely the motive which prompted Dr. Wielobycki to this generous act, but it must be borne in mind that the money was really Isabella's, and that as he did not know that she had already, as the phrase is, given him away, he doubtless hoped to prevail upon her to keep silence regarding his connection with her unlucky chirographic experiment. But his own arrest precluded the possibility

[1] *Scotsman*, 3rd December 1856.

of any further consultations with his old patient. A search at No. 1 Rosefield Place and No. 55 Queen Street resulted in the discovery of certain documents, which were taken possession of by the police; the Doctor was apprehended, and having been judicially examined, was committed on the charge.

Now Lord Advocate Moncreiff, as he afterwards explained to the jury, was in a position of some difficulty with regard to the prosecution of the accused persons, by reason of the peculiarities which the case presented. The forged document had been destroyed; if the two parties concerned in the forgery were placed at the bar, it would be no easy matter to bring the crime home to them, and the result might well be that both offenders would escape punishment.[1] So in the exercise of his learned discretion his lordship, considering the relative positions of the accused, elected to put the doctor in the dock and the patient in the witness-box.

On Thursday, 8th January 1857, the High Court of Justiciary, Edinburgh, was crowded by a refined audience, vastly intrigued by the development of what is known nowadays as a society sensation. The Lord Justice-Clerk (John Hope) presided, accompanied on the Bench by Lords Handyside and Deas. Lord Deas was not conspicuous for straining the quality of mercy; and though his neck was in no danger, the Doctor must have been relieved to find the amiable Justice-Clerk, and not that Draconic senator, was to be the arbiter of his fate. Dr. Wielobycki's manner throughout the two days' proceedings was marked, we are told, by firmness and composure. The prosecution was conducted by His Majesty's Advocate (James Moncreiff), assisted by Mr. Donald Mackenzie, Advocate-Depute; the Dean of Faculty (John Inglis), with Messrs.

[1] A similar dilemma beset the public prosecutor in the historic case of Burke and Hare; but in that instance Lord Advocate Rae was forced by the circumstances to proceed against the less guilty couple—if there be degrees in blackness—who refused to turn King's evidence against the baser pair.

Millar and Thomson, advocates, appeared for the accused. The pannel was charged with forging and uttering as genuine a testamentary deed, as set forth at great length in the cumbrous indictment of the time. It was drawn by Mackenzie [1] who, associated six months later with Moncreiff in the prosecution of Madeleine Smith, also framed the indictment upon which that captivating damsel was tried. After a detailed narration of the facts with which the reader is already familiar, the charges, briefly stated, were as follows: (1) on a day between 24th October 1856 and 5th November 1856, forging, or causing to be forged, or assisting Isabella Darling to forge a will purporting to be written by Margaret Darling, and adhibiting her signature thereto; (2) on 4th November 1856, within the chambers of David Wight, W.S., uttering the said will as genuine, well knowing it to be forged, that it might be founded on as setting aside the rights of the next of kin; (3) on 6th November 1856, in the same place and to the same party, uttering the said will as aforesaid, in order that it might be recorded as a probative writ; (4) on 10th November 1856, in the same place, uttering the said will as aforesaid to William Rutherford, with intent to defeat the claims of his clients; and (5) on 13th November 1856, within the house at Rosefield Place, tearing, burning, or otherwise destroying the said forged will, as affording evidence of his guilt in the premises. The pannel having pleaded Not Guilty to these charges, and no objection being taken to the relevancy of the indictment, the case went to trial.

The first witness for the Crown was Sheriff Hallard, who had judicially examined the prisoner and taken his declarations. Two Sheriff-officers spoke to the arrest of Isabella Darling and of Dr. Wielobycki, and identified certain documents found in their respective houses. Mr. Rutherford was then called, and in reply to the Lord Advocate,

[1] Donald Mackenzie (1818–1875), afterwards Lord Mackenzie; Advocate-Depute, 1854–58, 1859–61; Sheriff of Fife, 1861; Bench, 1870.

described his dealings with the Darlings prior to the advent of Dr. Wielobycki, his supersession as their agent by that expert, the invention of the will, his repudiation of that fallacious document, and the settlement of his clients' claims, all as before narrated. Cross-examined by the Dean of Faculty, he thought the will occupied a page and a quarter; it was written on a large sheet of letter-paper. He did not remember whether it was signed on the first page. Isabella was in the habit of writing letters for Thomas, but not for Margaret. She was the most active member of the family and put herself more forward than the others. He had known them for twenty years. When he gave up the agency their money was all invested; £500 on heritable, and the rest on personal security. They were not on good terms with their nephews and nieces. Thomas's settlement gave the two sisters all his property. At their first interview Dr. Wielobycki was very much excited; witness was not in the least so. "I thought he was going to deceive these people; and I said it would turn out to be a swindle, meaning that he would swindle them. He was much annoyed and excited. He did not order me to leave the house." Re-examined, witness said he paid to Mr. Carter £3400 of the Darlings' money.

Mr. Carter, examined by the Lord Advocate, said he was employed by Dr. Wielobycki to get the Darlings' money from Mr. Rutherford. Witness told him he must have Thomas's personal authority to do so, and the Doctor wrote, that if it were really necessary, "I could give you a drive in my carriage" for that purpose. On 17th June 1856 Isabella Darling wrote again, telling him to pay £1600 to Dr. Wielobycki, which he did. Asked how the sum was to be invested, the Doctor said, "on heritable security in Glasgow." On 28th June he received from Dr. Wielobycki a letter in these terms:—

Dear Sir,—Misses Darling of Portobello have requested me this evening to say that they will be much obliged to you to get all the money

due to them from the rest of the creditors collected without delay, as they have now an opportunity of getting it invested on more advantageous terms, or to deliver the papers and documents to me to employ a sharper agent, if you find any difficulty in dealing with Mr. Rutherford of Galashiels. I shall call at your office about it on Monday morning; and to give satisfaction to Misses Darling, who are anxious to get clear of the lawyers fast, please to prepare a final account with them for the management of their affairs by you hitherto, for their perusal.

"Before retiring on the 'int," in the Billickin's polished phrase, Mr. Carter paid over to Dr. Wielobycki certain further sums, being the balance of the Darlings' money in his hands. Witness then described the demand made after Margaret's death, and the production of her will by the Doctor on the very day that counsel had advised in favour of the claim. When he heard of the discovery, he asked Dr. Wielobycki whether the will was holograph and explained to him the meaning of that term; the Doctor replied that it was so. Cross-examined by the Dean, witness said he received in all on behalf of the Darlings £3918. On 13th May 1856 he paid Dr. Wielobycki £120, 15s. for medical attendance on Thomas; on 18th June, £1600; on 9th July, £500; and on 31st July, £450. The will was written and signed upon a single page—a half-sheet of foolscap. Re-examined, in addition to the sums mentioned, witness paid direct to Isabella a further £750, which he afterwards learned she gave to Dr. Wielobycki, who got altogether £3420. The Doctor wrote to Isabella that "it was bold and improper in Mr. Carter to take any further steps without consulting me." Dr. Wielobycki told witness that the Darlings had "a horror of lawyers," and would not see one except in his presence.

Mr. Wight, in reply to the Lord Advocate, told how he was consulted as to the effect of Thomas Darling's settlement and instructed to obtain opinion of counsel thereon; how Dr. Wielobycki introduced himself on 4th November, armed with Margaret's will and the letter from Isabella intimating its discovery; and described the subsequent

history of that document so far as known to him. Cross-examined by the Dean, Mr. Wight said that whenever he saw the will he remarked, " ' Surely, Doctor, this must have been prepared by a man of business ? Did you give Miss Darling a copy of it ? ' He said, ' I had a copy of a will.' " It was written and signed on one page of blue foolscap, which it nearly filled. Personally, he knew nothing of the Darlings' handwriting. The first time he saw the will it was not " backed up " ; on the second occasion it was, and in the same hand as the body of the document.[1] Witness told Mr. Rutherford that Dr. Wielobycki admitted he had " participated in the fabrication," and the Doctor complained of his having done so.

Dr. Wielobycki's own holograph settlement, found in his repositories, was then put in. It bore the fateful date of 4th November 1856—which, by the way, must have been a busy day for the Doctor—and is chiefly important as being identical in legal phrasing with the terms of the forged will.

Isabella Darling, examined by the Lord Advocate, described the deaths of her mother, brother and sister, and the transference of their whole property to Dr. Wielobycki. " The Doctor told us we would get better interest for our money if he had it." At this stage the Lord Justice-Clerk informed the witness that as she had been called for the Crown, anything she might say as to her own share in fabricating the alleged will could never be used against her. Thus assured, Isabella resumed her tale.

> After I heard the opinion of the lawyers in favour of my sisters' children, some communication took place between Dr. Wielobycki and me as to making a will for my sister [Margaret]. I said to the Doctor I was sorry it had happened so, and I thought there would be no harm in writing a will for myself on a simple piece of paper. He said at first he thought it would be as well not to do it ; but then he went in with me. The Doctor wrote a scroll of it for me and on the same night he said he

[1] This posthumous endorsement forms a curious instance of automatic writing from " beyond the veil."

would write a shorter scroll. This was some time after my sister's death. I think we had spoken of doing it before. The scrolls were written in my house in Portobello. Dr. Wielobycki left me both scrolls and I copied one of them and signed my sister's name to it. I burned the scrolls. When I saw the Doctor afterwards, I told him what I had done, and he said he would see if it would do.

The will as set forth in the indictment was that which she wrote from the Doctor's scroll. He dictated to her the letter written by her to Mr. Wight announcing the discovery. Dr. Wielobycki, approving of her handiwork, took the will and the letter away with him. "The next thing I heard from him was that it would not do": Mr. Rutherford said it was in her handwriting, not Margaret's. In these regrettable circumstances the Doctor advised her to give up £1200 to the nephews and nieces, "and there would be no more about the will." But here, as we have seen, the good physician's diagnosis was at fault. He gave her back the document, which she burned after the settlement with Mr. Rutherford. "He [the Doctor] told me the Fiscal had been inquiring about it, and he asked several times if the Fiscal had been at me. He appeared to be anxious; and he told me to be sure never to mention his name, but to say it [the will] was made between my sister and myself." The joint settlement of 2nd May 1856 by Margaret and herself in favour of Dr. Wielobycki was written by her to the Doctor's dictation after her sister's death, the signature of Margaret being appended by her. "The Doctor sat by my side telling me what to write, word for word. I never wrote a letter except at his dictation." Though she had given her whole fortune to her medical adviser, she only received one quarter's interest on her money: £45, from which the Doctor deducted £20 "for his trouble in lending it out." He carried away all their savings in cash: £159 in half-crowns; £13 in crowns; £2, 10s. in florins; £18, 10s. in shillings; £5 in sixpences; and £172 in notes: in all £370. She also gave him the £750 paid over to her by Mr. Carter. She got no receipt

or acknowledgment for any of these sums. Cross-examined by the Dean, she said that Mr. Rutherford was always honest and faithful; they were not dissatisfied with him. "We were told by the Doctor it would be much better to have a private gentleman to manage our affairs than a writer or man of business." With regard to her habit of writing to the Doctor's dictation, she said she could not express herself properly unless directed by a learned man. She put Margaret's name to the will in favour of Dr. Wielobycki "to make it stronger: two names were better than one." As to the forged will, she said, "I did not think I was committing forgery. As it was on a simple piece of paper and without witnesses, I thought the law would not take hold of me." She knew that but for the will her nephews and nieces would have got the money. She had never said it was hard that the Doctor should be imprisoned on a charge he had nothing to do with: "the Doctor was the cause of her making the will." When apprehended she at first denied all knowledge of the affair, but afterwards told the whole truth, as she had now done.

After some formal evidence as to the recording of the will, the giving out of an extract, and the return of the principal to Mr. Wight, James Milroy, law clerk, examined, said he was a patient of Dr. Wielobycki. On 4th November he met him in Elder Street. The Doctor asked whether a will dealing with movable property required a stamp? He answered, no. The Doctor then asked whether any particular form of words was necessary? He replied that any words clearly expressing the intention of the party would be sufficient. The next question was, did it need to be witnessed? "Yes," said Milroy, "unless it is holograph"; and he explained the meaning of that term. Fortified by this legal opinion the Doctor went his way —presumably to Portobello. At this stage the Court adjourned.

When the trial was resumed next morning but one witness remained to be called for the prosecution: the

borrower of the £1500. This turned out to be one Mr. Hernulewicz, a Glasgow merchant and, as appears, a compatriot of the Doctor, who had represented him to Mr. Rutherford as a "Scotch Duke." He described how the loan was negotiated, the security for which was taken in favour of Dr. Wielobycki. The declarations of the prisoner were then read. In the first, emitted on 27th November, with regard to the Glasgow loan he said he had intended to assign the bond to Miss Darling, when the buildings upon which it was secured were completed. Isabella never consulted him about making a will for Margaret. He never dictated anything to her, nor did he leave any paper for her to copy. When Isabella produced the will he made no inquiries; it was no business of his. The letter she wrote to Mr. Wight was her own composition; he had nothing to do with it. He denied that the conversations sworn to by Mr. Wight ever took place. When cited to appear before the authorities he gave back the will to Isabella and saw her destroy it. She was a weak-minded person, who required to be guided and managed. She and Margaret often declared their intention to leave him their money, but he always resisted such proposals. In a second declaration of 28th November he again denied that he had ever given to Isabella scrolls of any letters; but on being shown several such scrolls in his own handwriting, he admitted the fact. As to the joint will by the sisters in his favour, he said that he might have furnished a scroll of it at their request.

The case for the Crown being closed, certain evidence was given for the defence regarding the prisoner's bank accounts, of which he kept two, from which it appeared that all payments were made in his own name and that there was on each a balance at his credit. A coal merchant and a builder gave evidence regarding a Feu Charter in Miss Darling's favour, obtained on the prisoner's instructions, of a piece of ground at Whitehouse Loan, Edinburgh, on which a villa was being built. On cross-examination it

appeared that Isabella denied liability, and that the Doctor was held liable for the price: £720. An official of the Register House proved that Dr. Wielobycki bought his house, No. 55 Queen Street, at Whitsunday 1851, and that there was no incumbrance on the property; and an accountant, who had examined his books, said that the Doctor's professional income for the year 1855 was over £1200. An Edinburgh merchant, a dweller in Leith Walk, a Hawick manufacturer, and the keeper of a temperance hotel, severally testified that to their knowledge the prisoner was a man of strict integrity and the highest honour, benevolent, and the reverse of mercenary; they had seen nothing to shake their confidence in him as an honest and upright person. This closed the case for the defence.

The Lord Advocate [1] addressed the jury on behalf of the Crown. He began by referring to the peculiarities which the case presented: the position of the prisoner; the fact that the forged document could not be produced, because it had been destroyed; and the further fact that the hand which forged the writing was that of a person who, instead of being charged with the offence, appeared to give evidence against the prisoner. In secret crimes it often happened that an attempt to bring all the offenders to justice resulted in their escape, and it was in his lordship's discretion to accept the evidence of a party who otherwise might have stood in the dock instead of in the witness-box. The evidence in this case was divisible into three parts: (1) the real or documentary evidence, about which there could be no doubt, including the judicial confessions of the prisoner; (2) the oral evidence, other than that of the accomplice; and (3) the evidence of the accomplice herself. The first was of the highest importance, apart from a single word spoken in the witness-box.

[1] James Moncreiff (1811–1895). Bar, 1833; Solicitor-General, 1850–51; Lord Advocate, 1851–52, 1852–58, 1859–1866, 1868–69; Dean of Faculty, 1858–1869; Lord Justice-Clerk, 1869–1888.

The prisoner, a medical man in very large practice, involved himself in the pecuniary affairs of his patients, wrote out draft letters for them, conducted their negotiations, got their whole means into his hands and transferred them into bank in his own name. In the investment of their money he consulted no solicitor, they received no voucher for it, and his creditors could have swept off every penny. Their confidence in him was unbounded, nay, almost incredible. So completely was he master of their minds that they actually allowed him to take the savings of many years, accumulated in half-crowns and shillings, amounting to upwards of £300. There was also the very singular and startling fact that he held in his hands a document, purporting to be signed by Margaret and Isabella, making over to him at their death the whole of their property.

So that this medical attendant, not content with having received into his own hands the whole funds belonging to this family, not content with having them invested in his own name, took from these ladies a document constituting him their heir. That a man standing in his position should, without the intervention of a law agent, have permitted this to be done was a matter which required no comment; but that document being in his possession, the jury would see at once that not only was he the custodier of the funds, but that he had also the strongest possible interest in their ultimate destination.

Before Margaret Darling died the prisoner consulted Mr. Carter as to the effect of Thomas's settlement, saying she would make a will if the money would not otherwise go to Isabella. So Dr. Wielobycki knew then that no will had been made. After her death, when he heard of Mr. Rutherford's claim, he was in great agitation and wanted an opinion of counsel. It was plain that at that time no will could possibly have existed. The opinions, both unfavourable, were received on 3rd November; on the 4th Dr. Wielobycki came up from Portobello with the alleged will and the letter from Miss Darling. No one could believe that it had been written by herself. It contained

words of legal import not used in her brother's settlement ; where did she get them ? Among the documents found in the prisoner's house was a will in his own handwriting, dated 4th November, in which the very same words were employed. This proved not only that Dr. Wielobycki had a form of will, but one that was *verbatim* that used by Miss Darling. They had heard what was the prisoner's conduct when the will was repudiated by Mr. Rutherford : he at once negotiated for a settlement, recommended Miss Darling to pay, and when cited by the authorities to produce the will, took it to Portobello and saw Miss Darling destroy it. Were these the acts of an honest man ? Without one word of oral evidence the forgery was proved. As to where the guilt really lay, let them remember the great interest Dr. Wielobycki had in the property, that he must have known the will was not made by Margaret, that he tried to pass off the forged deed as genuine, and the moment it was challenged, withdrew it, paid the claims, and saw it destroyed. With regard to the oral evidence, other than that of Miss Darling, his lordship referred to the conversation spoken to by Mr. Milroy as showing that the prisoner was investigating the subject. He then examined at large the evidence of Messrs. Rutherford, Carter, and Wight, emphasising the importance of the prisoner's confession to the latter. Upon this branch of the case, as upon the former one, he was entitled to ask for a verdict of guilty. But the proof did not end there. The deed having been destroyed, it had appeared to his lordship that some further light must be thrown on the matter, and the only question was, should that light be obtained from Dr. Wielobycki or from Miss Darling ? In the circumstances of the case—looking to the station of the prisoner and his means of influence, the fact of that influence having been used, the position in which the property stood, and his relation to Miss Darling in the event of her death—his lordship had no hesitation whatever in reaching a decision. If Dr. Wielobycki were

guilty, it was one of the most flagrant cases of abuse of position, as well as breach of law, that had come under his notice as public prosecutor. He had accordingly placed Miss Darling in the box. No doubt her evidence was to be received with suspicion, but he would leave it to the jury to say whether, in view of the other evidence before them, they had the slightest hesitation in accepting her story as substantially true. If Dr. Wielobycki did try to dissuade her, his guilty knowledge was proved ; when she gave him the will he must have known that it was forged. The whole chain of events so hung together as to lead them unquestionably to the conclusion that the prisoner was guilty of the charges made against him.

The Dean of Faculty [1] then addressed the jury for the defence. The materials of which the Crown case was composed were, he maintained, extremely worthless. He could not sufficiently admire the skill with which the Lord Advocate strove to disguise the absolute necessity under which he felt himself in accepting the evidence of an accomplice. Such a course would never have been adopted had it been possible otherwise to establish the charge against the prisoner at the bar.

For thirteen years he had practised as a physician in Edinburgh, and had enjoyed an excellent and constantly increasing practice. He had made money, besides being in the receipt of a very good income ; he had purchased the house in which he lived in Queen Street, and he had a comfortable balance at his bank account. He was distinguished among all who knew him as a person not only of undoubted probity and high honour, but as a man distinguished for benevolence on the one hand, and for the absence of any special love of money on the other. Such a man, as regarded personal character and position in life, was about the most unlikely man to engage in the commission of an offence such as he was now charged with.

It was said that he was interested in Miss Darling's estate ; but the whole amount to be gained by the crime was only

[1] John Inglis (1810–1891). Bar, 1835 ; Solicitor-General, Lord Advocate, and Dean of Faculty, 1852 ; Lord Justice-Clerk, 1858 ; Lord Justice-General and Lord President, 1867–91.

£1200, which he hoped to receive on the death of a person not much older than himself, a sum equal to a single year's income; and for this he had plunged all at once into this vortex of crime and guilt. It was incredible; but on what sort of testimony were they asked to believe it? There was real evidence of his acquaintance with the Darlings, who, having great confidence in him, entrusted him with the management of their affairs. Even if the jury thought his conduct in this regard improper, were they to conclude, because there was some suspicion of a forged will, that he must be the author of the fabrication or have any necessary connection with it? It was alleged that £3670 of the Darlings' money found its way into his hands; but it was given him for investment, he had invested it, and every shilling of it was extant: £2000 lent in Glasgow, £1200 paid to Rutherford, £300 to bail out Miss Darling, making £3500, and leaving only £170 in Dr. Wielobycki's hands, to meet which he had property of much greater value. What a commentary was this on Mr. Rutherford's story that all the money had disappeared! It was all perfectly safe, and whether or not it was discreet of Dr. Wielobycki to invest it in his own name, there had been no deception. The Dean then referred to the rooted and strong enmity against the prisoner which characterised the conduct of Mr. Rutherford throughout. When he insisted on knowing how the money was to be invested, Dr. Wielobycki told him a cock-and-bull story about a "Scotch Duke," because he was disgusted with Mr. Rutherford's impertinence and was quizzing him most unmercifully. With regard to the alleged fabrication, it was strange that the prisoner should have set about forging a will before the unfavourable opinion had been received. He showed the will to Mr. Wight on the morning of 4th November, and that forenoon he had some conversation with Mr. Milroy, the suggestion being that he thus learned how to make the forged instrument. "Why, it was made already and in the hands of Mr. Wight, and if

Miss Darling was to be believed, it had been in existence for days!" As to the resemblance between the will and Dr. Wielobycki's settlement, what more natural than that, having it in his possession, supplemented by Milroy's hints, he should use it as a model for his own? "It was said that Mr. Rutherford at once pronounced the document a forgery, but coming from the quarter from which it did, it would present itself to him in the most diabolical light; he [the Dean] would not have been surprised if Mr. Rutherford had expected the prisoner to commit murder, and he was not very sure if he had not thought something of that sort." A great deal had been made of Dr. Wielobycki, when accused of being accessory to the forgery, not having denied it; but how could a Polish doctor know the meaning of the term accessory? Why, if he were guilty, did he not put the will in the fire, instead of giving it back to Miss Darling? He may have given it with some dark suspicion in his mind that something was wrong, but with a desire to let her do with it what she thought best for the purpose of screening herself. The Dean then examined the evidence of Messrs. Rutherford, Carter, and Wight, making the most of the discrepancies between their respective descriptions of the will.

All through, the jury would see a spirit of venom in Mr. Rutherford's conduct; he rushed, in a wild-bull fashion, throughout the whole affair; stumbling himself, contradicted by everybody else at every stage of his proceedings, he was a witness entirely unworthy of credit. With his blundering rage on the one hand, and the indistinct recollection and most imperfect articulation of Mr. Wight, who could not give an intelligible account of any one thing that passed, on the other, he [the Dean] thought the jury would be disposed to give no weight at all to their evidence.[1]

If there were other evidence connecting the prisoner with the forgery, then such testimony might be appealed to as affording corroboration, but there was none. What faith

[1] From this passage it is plain that the learned Dean was familiar with the maxim current in the law courts of our English neighbours: "No case; abuse the plaintiff's attorney."

could be placed in Miss Darling? The manner in which she expressed herself as to what she had done was revolting. Her statements were no more to be depended upon than if she had no conscience at all, and even in her falsehoods she was inconsistent. Miss Darling, therefore, stood condemned, and without her there was no evidence. That a man of respectable position in society and of the highest character, without need or poverty to drive him to the commission of an offence so grave, and with no adequate motive even as to the amount of money to be gained by it, should all at once, falling from his high estate of honour and integrity, commit one of the basest crimes, was more than any jury could believe. With this declaration of faith—fallacious, as we shall find in the sequel—the Dean, amid loud cheers from the audience, resumed his seat.

The Lord Justice-Clerk [1] then charged the jury. If they should hold that the prisoner, even if he did not suggest the making of the will, yet concurred in the fabrication and furnished the scroll from which it was written, knowing that the signature of Margaret Darling was to be attached to it, that would amount to forgery. The crime, however, was incomplete unless the forged instrument was used and uttered, but if they were satisfied that the prisoner had produced to Messrs. Wight, Carter, and Rutherford this will as genuine, knowing it to be forged, then he was guilty of using and uttering. In view of the fact, which was not disputed, that he had acquired and possessed so complete an influence over these people that they gave into his hands all their money without even a receipt, it was plain that they were very ignorant, facile, and weak-minded persons. The foundation of the charge was that the will was actually forged; and if it was written by Miss Darling, of what avail to disprove that fact were minute criticisms on alleged contradictions between wit-

[1] The Right Hon. John Hope (1794–1858). Bar, 1816; Solicitor-General 1823–30; Dean of Faculty, 1830–41; Lord Justice-Clerk, 1841–58.

nesses as to its outward form? It was an extraordinary thing that the will should be produced on 4th November just when it was required, and it was equally remarkable that so soon as it was challenged the whole purpose of it, namely, to secure Margaret's share of the succession, was given up and the will was destroyed. Even without the testimony of Miss Darling, they could not but hold that it was a forgery. With regard to her evidence his lordship observed :—

> She admitted having written the will, and said she had done so from a scroll furnished by Dr. Wielobycki. In a person of such extreme weak-mindedness, stupidity, and irresolution, capable, as the prisoner described, of saying yes or no to anything, there was often combined with that a cunning, narrow-minded, selfish desire to promote their own interests, however unscrupulously. This might account not only for her indistinct ideas of right and wrong, but for her absurd notions as to what was punishable and what was not, and might also account for her doing a thing which, if she had known she was liable to be punished for, she would not have done. But all this want of capacity and of moral discrimination did not prove that she was unworthy of credit when she spoke to actual facts that had occurred.

Having read over to the jury the evidence of Isabella and of Messrs. Wight, Rutherford, and Carter, his lordship said the first question was, were they satisfied as to the existence of this forged will? The learned counsel for the defence had not challenged the fact, and they might take it as established. The next point was, did the pannel aid and abet that fabrication? Even if they disbelieved Miss Darling's statement that he supplied her with a scroll, such as he provided for all her other writings on matters of business, did he know it to be forged, and, so knowing, utter it? Was it possible that if he uttered it he believed it genuine? What was his conduct when it was challenged as a forgery? The prisoner had called evidence to prove that he had £600 in bank, owned a house in Queen Street, and earned a professional income of £1200 a year; that he was reputed an honourable, benevolent, and kind-hearted

man. To all that they would give due weight. If, on the other hand, they were satisfied upon the proof that, from whatever motive, the prisoner was a party to the fabrication of the will, or that in uttering it he was in guilty knowledge of its being forged, then however unfortunate it might be for a person of such character and standing, no evidence of character could set aside facts proved to their satisfaction. Evidence of character was of great importance, but they all knew, and experience constantly taught them, that they must trust to proven facts as against all presumptions arising from previous good character.

His lordship having concluded his charge, the jury retired to consider their verdict, and after an absence of twenty-five minutes returned to Court with the following finding: "The jury unanimously find the prisoner guilty as libelled, but recommend him to the mercy of the Court."

Lord Handyside (who presided, the Justice-Clerk having left the Court)—Since you have recommended the prisoner to the mercy of the Court, it would be satisfactory to the Court to know the ground on which you make that recommendation.

The Chancellor (Foreman)—On the ground of his previous good character.

The verdict having been recorded, the diet was adjourned till Monday next at ten o'clock, when sentence would be pronounced. The Court then rose. The prisoner, we read, who seemed much exhausted by the protracted trial, received the announcement of the verdict with the same firmness and composure that had characterised his demeanour throughout the proceedings. There was evident sympathy with him in the crowded Court, but an adverse verdict was generally anticipated. A large crowd, unable to obtain access to the Court-house, awaited the result of the trial in the Parliament Close.

At the sitting of the High Court on 12th January, the Lord Justice-Clerk and Lords Cowan and Deas upon the Bench, when the diet was called against Dr. Wielobycki

the Justice-Clerk stated that in consequence of Lord Handyside not having been able to make up his mind as to the punishment to be inflicted, the Court would continue the diet against the pannel till Wednesday following.[1] On that day the Lord Justice-Clerk, having resumed the facts of the case, observed :

> The matter of punishment has been the subject of very anxious consideration to the Court. The gravity of the case, the great importance of the punishment in point of precedent and for the end of deterring others from the commission of such crimes, and—I won't disguise it—the commiseration arising in my mind at the moment of conviction for the situation in which the pannel was then placed, as compared with the description of his former position in society, and the faint hope on my own part that, in the opinion of the rest of our brethren, we might find some kind of encouragement for making an exception from the ordinary line of punishment in these cases, induced us to consider the case with the aid of the whole other members of the College of Justice. We found them all decidedly and firmly of opinion that the course of practice and the character of the offence could lead to but one result, and after full consideration I am satisfied that it is the fitting and proper conclusion. Therefore, Dr. Wielobycki, the sentence of the Court is, that you be transported beyond the seas for fourteen years.[2]

The prisoner was then removed from the bar.

The animadversions of the Dean of Faculty upon the character and conduct of Mr. Rutherford aroused strong resentment in the Border country, where that gentleman was held, personally and professionally, in high esteem. Both the *Border Advertiser* and the *Kelso Chronicle* protested against what they considered a flagrant abuse of the licence allowed to counsel, and demanded a public apology, but none was vouchsafed. It appears that the Dean's strictures had incurred a reprimand from the Bench, but neither of the reports of the charge which I have consulted contains any reference to the matter. It

[1] *Courant*, 13th January 1857.

[2] *Ibid.*, 15th January 1857. It is said that Lord Handyside, having known the doctor personally, was naturally unwilling to pronounce sentence on his former friend.

seems unfair that the reporters, having recorded the Dean's diatribe, should have omitted the judicial reproof; but John Inglis was a much bigger man than John Hope, and perhaps they were afraid to do so. At a dinner of the Selkirkshire Farmers' Club, Major Scott of Gala, in proposing Mr. Rutherford's health, spoke loudly in his vindication and waxed exceeding wroth with the Dean of Faculty. Mr. Rutherford, in responding, said that though he had been hardly used, the wounds inflicted by his learned censor were but skin deep, and he was none the worse for them.[1]

Despite the doom pronounced against him by the unanimous judgment of the Lords of Justiciary, the Polish physician was not destined to "dree his weird" to the extent prescribed. By the courtesy of H.M. Prison Commissioners for Scotland and England respectively, I am enabled to acquaint the interested reader with the several stations of his punitory pilgrimage. Dr. Wielobycki, apprehended on 28th November 1856, registered as forty-two years of age and as a member of the Church of England, was, as we have seen, sentenced on 14th January 1857. On 16th February of that year, by order of the Secretary of State, he was transferred to Wakefield prison.[2] On 16th December the convict was removed to Lewes prison, where he remained until 13th July 1859, when he was sent to Dartmoor. On 2nd February 1862 he received a full pardon.[3] There is nothing in the prison records to indicate the grounds upon which the pardon was granted; perhaps the Home Secretary, less Rhadamanthine than the Lords of Justiciary, thought five years' penal servitude was in the circumstances of the case a sufficient punishment.

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[1] *Scotsman*, 17th January 1857.

[2] There was at that date no provision made in Scotland for the accommodation of convicts undergoing a sentence of penal servitude.

[3] Communicated by Dr. James Devon, H.M. Prison Commissioner for Scotland.

How the Knight of the Golden Cross (*Virtuti Militari*) employed his recovered leisure during the nine years which elapsed until he again became in 1871 a citizen of Edinburgh, I cannot tell. Only two items of his post-penal history survive: he married, according to the inscription on his tombstone, Lady Felice, Baroness Wielobycka; he died, as his obituary notice informs us, at No. 3 George Square, Edinburgh, on 16th November 1882, at the age of sixty-nine, and in the bosom of the Catholic Church.[1]

Whatever good may have been done by Dionysius Wielobycki in the flesh is interred with his bones in the Grange Cemetery; the evil that he did lives after him, as I have occasion to know, in legend. On asking the other day a venerable lady of my acquaintance in Edinburgh whether she recollected Dr. Wielobycki, she replied that she remembered him perfectly as a dweller in George Square; also his noble helpmate: "a tall, handsome, fair-haired woman." And then my friend added the, to me, novel and surprising statement: "He was hanged for poisoning his wife"! Seeing that the Baroness Wielobycka survived to have a Requiem Mass celebrated in the Pro-Cathedral, Broughton Street, for the repose of her husband's soul,[2] to erect over his remains a marble monument, and to mourn his loss for a season in the connubial mansion,[3] it would seem that my informant's memory is upon this point defective. Wherefore, being a conscientious historian, I am compelled reluctantly to reject as apocryphal this so dramatic conclusion, which much better "fills the bill," as I of old conceived it, than the simple and insanguinary truth. Verily, there is wisdom in the familiar proverb relative to the consequences of giving a dog a bad name.

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[1] *Scotsman*, 17th November 1882.

[2] *Ibid.*

[3] Edinburgh Directory for 1883.

A GOSSIP ON A NOVEL OF GALT'S

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> Is it not difficult to understand how certain of these successful writers of fiction—these favoured ones into whose hands the gods have placed the great bow of Ulysses—can look so frivolously upon their craft ?
>
> —Frank Norris: *The Responsibilities of the Novelist.*

FEW men of genius have been more prodigal of their gift or more careless in its exercise than John Galt. At his birth the blessings bestowed upon him by a galaxy of fairy godmothers were singularly rich and varied. To him was given to know his fellow-countrymen even as intimately as they were known to Sir Walter, to present their manners and customs with an original and peculiar charm, vividly to evoke for us their quaint humours, and diving deep into the wells of Scottish character, to draw forth from those recondite depths wonderful pearls. The seeing eye, the understanding ear, the gentle heart, the pen of a writer only too ready, with all these was he liberally endowed. And then one malign and uninvited hag pronounced the qualificatory curse: "But he shall never appreciate his real gift." Neglecting Art, his rightful mistress, he should follow after strange commercial gods and fall down before false literary shrines; his worship of his true divinity should be fitful and divided; his capable right hand should neither know nor care what his left hand so indifferently did. And thus in the fulness of time it came to pass that the writer who could conceive and execute such fine work as is to be found in *The Entail*, in the *Annals* and *The Provost*, in *The Ayrshire Legatees* and *The Last of the Lairds*, and in *Ringan Gilhaize*, could spoil the admirable homespun fabric of *Sir Andrew Wylie*

with fashionable " romantic " fustian, and could produce the uninspired and dispiriting pages over which in too many of his other books the gentlest reader yawns. If, instead of losing health, time and money in grandiose colonial schemes he had stayed quietly at home and written tales of Scottish life and character such as only he and one other could write, his fame in this quarter of the vineyard might have equalled Scott's. But Sir Walter had the stronger head ; and though he too came commercially and irrelevantly to grief, he sought only to establish a single house, whereas Galt strove to found cities and to subjugate a province.

Even in his legitimate sphere our author made mistakes. When at length he did in fact " arrive," he failed to take St. Paul's advice and purge his conscience from dead works. The voluminous corpses—poems, plays and novels, voyages and travels, biographies and mercantile treatises—which bestrewed his backward literary way had perished to no purpose. Not content to paint in his own *genre* inimitable interiors and homely scenes, full of colour and peopled with living folk, he must needs emulate the heroic canvases of Scott, to what unhappy effect *The Spaewife*, *Rothelan*, and *Southennan*, survive to testify. Such high adventures did not, in Alan Breck's phrase, set his genius. Master of the delicate art of the miniaturist, he failed to wield Scott's mighty brush. Yet once at least in this alien and ambitious medium he did achieve a signal triumph : *The Entail* is a novel worthy to be sealed of the tribe of Waverley, and would have been a feather in the cap even of " The Great Unknown." Of this there will be more to say ; meantime as I find among persons in other respects intelligent and cultured, regrettable ignorance of the man and his work, it may be worth while to give for their behoof a brief account of both. The material ought to be ample, for not only did he leave an *Autobiography* in two stately tomes, but also three volumes of a *Literary Life*. But, alas, these were written when he was

old and sick and very weary; they are sad reading in more ways than one, and do no justice to his genius. Of the *Autobiography*, indeed, Mr. John Ayscough has somewhere significantly remarked, apropos to the scarcity of copies: "I suppose they have mostly been burned by his admirers." The *Literary Life* is sufficiently inadequate to deserve a similar *auto-da-fé*. Fortunately his friend, Dr. Moir, the "Delta" of Blackwood and the amiable author of *Mansie Wauch*, has from his intimate knowledge done much to supply the want.[1]

I.

On 2nd May 1779, five years after the death of the poet Fergusson, when Scott was a boy of eight and Burns a lad of twenty, John Galt was born at Irvine in Ayrshire, the "Irville" and "Gudetown" of the novels. His father, the master of a West Indiaman, was a personable mariner of medium parts; but his mother was a woman of character, from whom Galt derived his sense of humour, his aptness to note the ludicrous, and his command of racy, graphic, and forcible Doric speech. One of the first impressions made upon his infant mind was the ecclesiastical scandal caused by Mrs. Buchan. The fair foundress of the Buchanite schism came to Irvine and having converted the Rev. Mr. White, the Relief minister, she gave herself out to be the Woman spoken of in the twelfth chapter of Revelation, and Mr. White, the man-child she had brought forth. Ejected from the town by an unregenerate magistracy, the apocalyptic couple set out *en route* for the New Jerusalem, accompanied by some fifty of the faithful, among whom, precociously, was Master Galt, his fancy thus early led captive by things quaint and curious. His mother, pursuing, hastily withdrew him from the heresiarch's band; but the memory of the wild psalm-singing

[1] Biographical Memoir, Edinburgh, 1841; later prefixed to Blackwood's "Standard Novels" edition of the *Annals*, now long out of print.

enthusiasts abode with him, and was recalled when in later years he came to write of Ringan Gilhaize and the wars of the Covenant.[1] His mind was singularly impressionable, and a winter gale witnessed by him as a child furnished forty years afterwards matter for that admired storm-piece, "The Windy Yule."[2] Like Fergusson, Scott, and Stevenson, he was a delicate boy, devoted to reading, for which his infirmity afforded but too much leisure, and an avid auditor of old wives' tales.

In 1789, when Galt was ten years old, the family removed to Greenock. As he grew stronger, he attended the local grammar school, where the future Lord Justice-General Boyle was then completing his education, and there began Galt's "particular association" with James Park, which endured till the latter's death in 1818. Park was a year older than Galt; he was a lad of fine intelligence, devoted to literature, and they became fast friends, worshipping religiously together in the local library. It is recorded of Galt that having read the *Iliad* as translated by Mr. Pope, he straightway knelt down and prayed that he might be destined to produce something equally great. The petition, so far as poetry went, was not granted.[3] On leaving school he and his friend Park entered the Custom House in order to learn business habits, but Galt did not forsake his Muse, and a blank verse tragedy on Mary Queen of Scots written at this time is described as very juvenile. Removed to a mercantile office he contributed occasional verses to the *Greenock Advertiser* and the *Scots Magazine,* and perpetrated a Gothic poem entitled *The Battle of Largs.* His commercial and poetic labours were varied by constructing a pianoforte or hurdy-gurdy, an edephusicon—which I am unable to interpret—and an Æolian harp. He was an enthusiastic

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[1] *Autobiography,* i. 6–7.

[2] *The Provost,* chapter xxiv.

[3] Galt jocularly terms *The Entail* "a work that will, no doubt, outlive the *Iliad.*"—*The Entail,* chapter xcix.

volunteer—we were then at war with France—a keen fisher, and his head was even then full of such schemes as water-works, canals, and the reclaiming of the well-known local Bank—not a financial, but a sandy problem. This mixture of motives and diffusion of energy was but too characteristic a feature throughout his life.

As the result of a rude business letter addressed to his employer Galt gave up his situation, and in June 1804, equipped with the MS. of the Gothic epic, went to London to seek his literary fortune. *The Battle*, published anonymously, proving a lost cause, Galt embarked upon what he vaguely terms "a commercial enterprise" in partnership with one M'Lachlan, a capable Scot. This enterprising person recalls that fallacious Caledonian whose memory Morris Finsbury would daily revile; he soon brought the business to bankruptcy, and Galt, disgusted for the nonce with commerce, decided to try the law. He entered himself a member of Lincoln's Inn, and while reading for the bar began his *Life of Wolsey*. The occupations of what he calls his "leisure" hours were sufficiently strenuous: he mastered the *Lex Mercatoria*, wrote a treatise on underwriting, a history of commerce and another of bills of exchange, and acquired a competent knowledge of heraldry![1] Then his health broke down, and in 1809 he had to go abroad.

Arriving at Gibraltar he met Byron and Hobhouse, with whom he struck up an acquaintance, and accompanied them to Malta, Sicily and Athens, all as narrated in the *Life of Byron* which he was afterwards to write. Notwithstanding the romantic circumstances of the tour his mind was busy with a scheme for evading the Berlin and Milan decrees by introducing British goods into the Continent through Turkey, but the project began and ended in a storehouse which he bought on a convenient island of the Greek Archipelago. Galt returned to

[1] *Autobiography*, i. 85, 86.

England ; his Levant scheme proving unacceptable to the Foreign Office, instead of taking up his legal studies he turned to literature as a profession. His *Voyages and Travels, Letters from the Levant,* and *Life of Wolsey* all appeared in 1812–1813, together with no less than five full-length tragedies, which Sir Walter Scott rather cruelly describes as the worst ever seen. After this literary debauch Commerce resumed her sway, and Galt returned to Gibraltar as the representative of a Glasgow merchant, to report upon the feasibility of smuggling British goods into Spain ! With characteristic thoroughness he set himself to learn Spanish. Wellington's victories in the Peninsula spoiled the plan, and Galt went home again in bad health and spirits.

His next project was a matrimonial one : he married Elizabeth, only daughter of Dr. Alexander Tilloch, editor of the *Philosophical Magazine,* with happier results than had hitherto attended his ventures, for the issue of the union was three satisfactory sons. In 1814 he visited Holland and Flanders in connection with a fresh scheme for the manufacture of cotton, which, of course, came to nothing. On his return from the Continent he wrote and published anonymously his first fictions, *The Majolo* and *The Earthquake.* These novels failing to set the Clyde on fire—he was then living with his family at Finnart, near Greenock —let alone the Thames, Galt went up to London to pilot the Union Canal Bill on its passage through Parliament. And now, escaping with our author from this catalogue of lost endeavour and disappointed hopes, we enter a brighter and more fruitful epoch.

Though it was always as a contriver of colonial schemes that Galt liked to be regarded, yet apart from his Canadian exploits he was even in his own land a pioneer. The unmatchable *Annals of the Parish,* declined by Constable in 1813 in the strangely short-sighted view that there was then no market for Scottish fiction, was well-nigh completed a year before the triumph of *Waverley,* and the unfinished

manuscript was laid aside and forgotten. Galt was forty-one, he had written much that had fallen by the wayside, when the amazing vogue of "the Scotch Novels" emboldened him to re-enter the literary lists. In 1820 Blackwood accepted for "Maga" *The Ayrshire Legatees*, the first-fruits of his natural and proper field; John Galt had found himself, as the phrase goes, and in every sense was come into his own country. The story—though really there is none—tells how an amiable Ayrshire minister and his family, having succeeded to the estate of an Indian cousin, go up to London to take personal possession of the property, and narrates the experiences of these simple folk amid the marvels of the metropolis. Told in the highly artificial form of letters and in the style of *Humphry Clinker*, it is, as Sir George Douglas has noted, "the first deliberate attempt in our literature to delineate for their own sake contemporary Scottish manners."[1] But though the method be borrowed from Smollett, the vigour and vitality of the correspondents, their humour and their pathos, are purely Galt. The thing was an instantaneous success, which our author was counselled to follow up. He had got, as Christopher North plainly put it, the right sow by the lug at last.

A special providence attends the fortunes of masterpieces: Scott, in search of fishing-tackle, finds in the drawer of an old bureau the unfinished manuscript of *Waverley*; Galt, arranging his papers one Sunday afternoon, comes upon the abandoned *Annals*. Completed forthwith, the manuscript was sent to Blackwood, who published it in 1821. "I wished," says Galt, "to write a book that would be for Scotland what *The Vicar of Wakefield* is for England,"[2] and nobly did he effect his object. The work, like its prototype in English, is unique in Scottish letters and is justly regarded as a classic. It owes nothing to Scott, and is informed with the shrewd

[1] *The Blackwood Group*: John Galt. Famous Scots Series, p. 62.

[2] *Literary Life*, i. 152.

spirit of observation, richness of original humour, and felicity in the use of the Doric, which are the hall-marks of the genuine Galt. The scheme is of the simplest; there is no plot and the book is a chronicle rather than a novel, embracing the fifty years' ministry of the Rev. Micah Balwhidder in the Ayrshire parish of Dalmailing, "written by himself."[1] George the Third and Mr. Balwhidder began their respective reigns the same year and day, and "the removal of the Royal Candlestick" was the signal for the minister's resignation. During the long period of his pastorate he notes all the changes and chances of the times as they affect his village flock, while he has an eye for the larger movements on the stage of history. Here, as in the author's earlier success, much of the charm resides in the naïve self-revelation of the good man's little weaknesses and foibles. In Galt's gallery of Scottish portraits Dr. and Mrs. Pringle,[2] the Ayrshire legatees, and the Reverend Micah and his three Mrs. Balwhidders will ever be held as miracles of art and truth. Custom cannot stale that delightful divine: he is as fresh, as actual, as diverting as on the day when Galt begat him.

There are certain great books which must be read only amid congenial surroundings: thus a railway carriage is no fit place in which to appreciate the *Hydriotaphia*, and read in a dentist's ante-chamber even *Moby Dick* might fail to charm. To taste the true savour of the *Annals* you should read it of a winter evening before a good fire, in your easiest armchair, when the lamp is lit and the curtains are drawn and the world is shut out for another day, with your favourite pipe in your mouth and at your elbow a tumbler of what Mr. Weller would call your "partickler wanity." If in these circumstances you fail to enjoy the

[1] Dalmailing, Galt tells us, is a pseudonym for Dreghorn. "In a still evening I sometimes think of its beautiful church, amidst a clump of trees . . . nor is the locality to me uninteresting, as it happens to be the burial place of my forebears."—*Autobiography*, ii. 228.

[2] "Mrs. Pringle is drawn from my mother, and was recognised by herself with some surprise and good humour."—*Autobiography*, ii. 229.

book, I am sorry for you. "Pray read the *Annals of the Parish*," writes Scott to Joanna Baillie on 11th June 1821. "Mr. Galt wrote the worst tragedies ever seen, and has now written a most excellent novel." [1] I hope that, if you have not already done so, you will take Sir Walter's advice.

In his next book, published in the following year, Galt continued to work the golden vein which he had so auspiciously opened. *The Provost* is own brother to the *Annals*: the form is autobiographic, there is the same unconscious self-revelation of character by the titular hero, the same symphony of small affairs, the same record of petty local interests; but all is said, seen and done from the standpoint, not of the worthy old presbyter, "with one eye on the stipend and one on the kingdom of heaven," but from that of the worldly-wise Provost of the Royal Burgh of Gudetown, with both eyes fixed firmly upon his own advantage. In his private capacity Mr. James Pawkie is a well-to-do mercer, and a shrewd man of business; in his public life, he is what is commonly called an active and intelligent magistrate. His activity is chiefly displayed in preserving to his own use the kindly fruits of office; his intelligence, in securing these with the least possible risk to himself. A much cleverer man than his colleagues, his management both of his brother councillors and of the town's affairs is a perpetual joy. The study of Provost Pawkie possesses a psychological interest rare in Galt, whose characters are apt rather to be static than dynamic. His doubtful hands grow cleaner and his conscience clearer with the amelioration of municipal manners brought about by the changing times, and he ends, as we all should do, a better man than he began. The period of Mr. Pawkie's provostry corresponds with that covered by Mr. Balwhidder's labours, and the same De Foe-like fidelity which marks the parochial record distinguishes the civic

[1] Lockhart, v. 82.

chronicle. Both are equally valuable to the antiquarian and to the student of social history; for, as Dr. Gray Graham has observed: "Of the changes in country towns and rural districts, as well as in social life, nowhere can be found such vivid and accurate pictures as in Galt's *Annals of the Parish*, *The Provost* and *The Entail*." [1] Galt tells us that *The Provost* was read in the House during a dull debate—"no uncommon thing"—by Mr. Canning, who "spoke of it afterwards always with commendation." [2]

In 1822 Galt published two other books besides *The Provost*: *The Steamboat* and *Sir Andrew Wylie*—an instance of the fatal facility with which he could spin his web. "One of his favourite maxims," says his friend Gillies, "was that book-making being at best a kind of lottery chance, he could by merely keeping the pen in hand begin and end a work in less time than a fastidious author would consume in laying his plans and debating *how* the thing was to be done." [3] Shades of Stevenson and Henry James! And yet it has been said that genius consists in a capacity for taking pains! *The Steamboat*, however, if less remarkable than its brilliant forerunners, is an original and attractive book, purporting to be written by one Thomas Duffle, of Boyle's Land in the Saltmarket of Glasgow, who seeks health and diversion in travelling to and fro between that city and Greenock by the then novel means of steam navigation. Most of the book is taken up with the reported narratives of his fellow passengers; one would rather have had more of the abortive bailie himself and less of the peripatetic storytellers. His taste for adventure increasing, Mr. Duffle embarks upon a voyage of discovery to London, where his experiences at the Coronation of George the Fourth make amusing reading.

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[1] *Social Life of Scotland in the Eighteenth Century*, 1906, p. 536, *n.*

[2] *Autobiography*, ii. 231.

[3] *Memoirs of a Literary Veteran*, 1851, iii. 58.

Sir Andrew Wylie is said to have been Galt's most successful appeal to the English public. This is probably due to the fact that in it he for the first time attempted to concoct a popular novel with a complicated plot, dealing with so-called fashionable life. What Galt knew about the ways of the Smart Set, and how he acquired the knowledge, does not appear. The book is pervaded by a certain nobleman, one Lord Sandyford, whose domestic difficulties are meant to supply the leading interest. He was, we are informed, drawn from life ; if so, Lord Blessington, who is said to have sat for the portrait, must have been in the flesh a very weariful peer. The pity is that Galt, having formed the excellent plan of showing the rise and progress in the world of a canny Scots lad, due to native pawkiness, perseverance and good humour, was persuaded by an egregious friend to make the tale " more like an ordinary novel," with " a beginning, a middle and an end, according to the most approved fashion for works of that description." The author " repined at the change," as well he might ; and one reader at least desires to associate himself with that expression of regret.[1] Galt is much less at home in London society than his ingenious hero is represented to have been ; here even the frequent *longueurs* are artificial, and the author and his fatigued readers only breathe freely when, his foot upon his native heath, he is again, in Mr. Crockett's phrase, " our own rich, simple, gracious Galt." The high company is poor company enough compared with the roguish " Wheelie," his grandmother, Martha Docken, Tannyhill, the schoolmaster—Galt never fails in drawing a dominie—Mary Cunningham, Miss Mizy, and the Laird of the Craiglands. Even the lesser figures, provided they be Scots, are natural and full of life. As to the style—contrast, for instance, with the vapid twaddle

[1] *Autobiography*, ii. 238 ; *Literary Life*, i. 244. It is strange how great writers will consent to alter their work at the instance of meddling and incompetent advisers. Thus did Dickens spoil the *dénouement* of *Great Expectations*, and Scott the *éclaircissement* of *St. Ronan's Well*.

of the fine folk this admirable observation of old Martha, touching the future of her "oe" [grandchild]:

> that she never wished to see him great, but only gude; for, as Solomon says, "grant me neither poverty nor riches"; and Solomon kent weel what the warld is—though, poor man, in his auld days he gaed aften far ajee out o' the straight road in the gloaming, tapping wi' his gowden-headed staff at the harlot's door, and keeking in at her windows with his bald head and his grey haffits, when he should hae been sitting at hame on his throne, reading his Bible to his captains and counsellors in a kingly manner.[1]

Sir Andrew Wylie always seems to me like Mr. and Mrs. Boffin's sitting-room at the Bower: divided, to the bedevilment of visitors, between the conflicting claims of Comfort and of Fashion.

The year 1823 found Galt at the summit of his fame and fortunes. The demand for his tales continued, new editions were published, and in the bracing atmosphere of success he set himself to produce his masterpiece. With *The Entail*, that great book, in which, as I hold, Galt's genius attained its supreme expression, I propose separately to deal; meanwhile it is sufficient guarantee of its quality to say that Scott and Byron each read it three times.[2] So enthusiastically did Galt develop his newly-discovered gift that in this same amazing year he wrote and published two other long novels: *Ringan Gilhaize* and *The Spaewife* —nine volumes in twelve months. He appears to have regarded his capacity of production as inexhaustible, and his self-confidence grew with the growing volumes. "He seemed," says Gillies, "to indite books as readily and pertinaciously as he would have scribbled mercantile letters, and often averred to me that his literary resources were far greater in extent than those of Sir Walter Scott or any other contemporary."[3] Alas, this was but the pride that goes before a fall, for if in *The Entail* he verily did warn the "Wizard" to look to his laurels, and in

[1] *Sir Andrew Wylie*, chapter xxv.

[2] *Literary Life*, i. 247.

[3] *Memoirs of a Literary Veteran*, iii. 59.

Ringan Gilhaize proved that there was another Richmond in the romantic field, their immediate successor *The Spaewife*, and *Rothelan* of the following year, both written in manifest rivalry of Sir Walter, show how far the result fell short of the intention.[1]

Even so casual a literary parent as Galt had a favourite child, and his name, strangely enough, is Ringan Gilhaize. The author, who tells us next to nothing about *The Entail*, devotes a whole chapter to a vindication of *Ringan*, which he elsewhere claims to be unique, from the animadversions of his critics.[2] He objects to have it classed either with a common novel or an historical novel or with such philosophical sketches as the *Annals*; he prefers to call it a theoretical history of society, limited by the subject, necessarily, to the events of a circumscribed locality. Sir George Douglas, who considers *Ringan* Galt's best work—"one of the finest and truest historical romances in our language"—is content so to describe it, which at any rate is a more comprehensible and convenient label. I remember Mr. Andrew Lang once saying to me of certain delectable ghost stories from an academic pen, that there was about them rather too much of the "antiquary" and not enough of the "ghost." To this historical romance it might with more justice be excepted that the historic element does in fact outweigh the romantic interest. The stage is too vast, the changes too frequent, the cast too large; and a drama which begins with the burning of Walter Mill at St. Andrews in 1558, and ends with the death of Claverhouse at Killiecrankie in 1689, is indeed for all concerned a breathless undertaking. Little wonder, then, that actors and audience are sometimes rather tired.

[1] Scott himself also was then writing too fast. He began 1823 with four volumes of *Peveril* and continued it with six of *Quentin Durward* and *St. Ronan's Well*. As for Galt's boast, however, unless fecundity be the sole criterion, the fact that to the year 1824 his contributions were *Rothelan* and *The Bachelor's Wife*, while Scott's was *Redgauntlet*, is a practical comment on the vanity of his claim.

[2] *Literary Life*, i. chapter xxix.; *Autobiography*, ii. 220.

The book was avowedly written as a counterblast to Sir Walter's epic story of the Killing-time, and Sir George Douglas claims that "Galt has in this romance laid bare the soul of the Covenanting movement. And this," he adds, "is what Scott in *Old Mortality* most signally failed to do." [1] Well, it may be so; Sir George is more intimate with the Covenanters than I am; but from the artistic point of view to me *Ringan* as a whole seems a splendid failure, despite its many brave scenes and stirring situations, its crowd of moving picturesque figures, and the admirable quality of the Scots in which it is written. And I would not willingly part with any of Sir Walter's goodly company even for Mistress Kilspinnie—that engaging wanton—and her "papistical paramour," the wicked Archbishop of St. Andrews. The device of setting forth this household memorial of a hundred and thirty years by the mouth of the younger Gilhaize, who narrates the adventures of his father and grandsire in addition to his own, is as original as it is ingenious; but though there are many fine and powerful passages, the tale is far too diffuse, and in the multiplicity of trees the effect of the wood is lost.

But with all its faults *Ringan Gilhaize*, in comparison with *The Spaewife*, is a work of flawless art. "Surely something must have come over Galt!" exclaims Sir George Douglas in his masterly monograph before cited; and of a truth it is hard to conceive these two books as written by the same hand. Foiled in two attempts upon *The Spaewife*, which, like Stevenson with certain plays of Shakespeare, having already made all suitable endeavour, I now know that I shall never read, I am not in a position to offer any criticism upon that antiquarian essay, as its author terms it. Scott, however, has pronounced his judgment, in which, so far as my incomplete researches warrant, I humbly concur.[2] George the Fourth had a high

[1] *Ringan Gilhaize*, ed. Douglas. London: Greening & Co., 1899. Introduction, p. xi.

[2] *Journal*, ii. 319.

opinion of *The Spaewife*, "which he expressed a wish that the author should know." [1] Galt was "not insensible to the value of Royal favour in smoothing the path to celebrity"; but the views of such a monarch upon any subject can never have mattered much to anyone.

II

Galt had set up his household gods at Eskgrove, near Musselburgh, so that his children might have the educational advantages of the capital, and there began his friendship with Dr. Moir. The property, sometime possessed by that eccentric Senator, Lord Eskgrove, colleague of the great Braxfield, whom he succeeded as Lord Justice-Clerk, had around it "many agreeable traditionary objects." The grounds embraced the site of Pinkie Cleuch; the windows of the house commanded views of Carberry Hill, where Queen Mary surrendered to the confederate Lords, and of the field of Gladsmuir; it was for the romantic historian a stimulating neighbourhood, and Gillies has recorded how readily our author responded to the spur. "He carried his principles of composition *à l'outrance* by finishing no less than three romances or novels of three volumes each in little more than six months. For the first of that mechanical series I believe he received £500, and he reckoned on an equal sum for the second and third." [2] Not thus are masterpieces produced. Gillies protested in vain against this intemperance of output. "Where's the harm?" asked his unabashed friend. "It answers a temporary purpose both of author and publisher. As to reputation, posthumous fame, and all that sort of thing, you little suspect how much I shall accomplish within two or three years more!" [3] Galt was incorrigible; the sphinx that patrols the highways of executive art, whose questions Stevenson took such pains to answer, had no riddle to propound for *him*.

[1] *Literary Life*, i. 261.

[2] *Memoirs of a Literary Veteran*, iii. 58.

[3] *Ibid.*, iii. 59.

The " Wizard " by his spells had raised an Abbotsford ; Galt proposed building upon his property " a veritable fortress, a petty stronghold, exactly in the fashion of the oldest times of rude warfare." It was to be a miniature reproduction of Dunstaffnage or Dunnottar, and every detail of his future *ménage* was carefully planned, even to the wines wherewith to stock his cellar.[1] " I built castles in the air of the most gorgeous description, with a Fame on the pediment blazoning with her trumpet," he afterwards wrote regarding the old abortive Levant scheme ; all his life he was but too busy about such aerial architecture, and, needless to say, the vintage never ripened that was to stock the vaults of the projected fortalice.

And now when one would have thought that even so versatile a man as Galt was at last " thirled " to literature as a permanent occupation, what must he do but abandon it for years and throw himself body and soul into the affairs of the Canada Company. Commissioned to act as " agent for such of the principal inhabitants as had claims to urge for losses during the invasion of the province by the armies of the United States," he decided to leave Scotland.[2] The scheme for the purchase of Crown lands to satisfy these claims was the suggestion of Galt. Why he should have interested himself in the matter is not clear, but he had long been in correspondence with the Government on the subject. He was required to take up his duties forthwith, and " it thus happened," he explains, " that my literary pursuits were necessarily suspended." The arrangements completed and the capital of the company raised, he and his fellow-commissioners sailed in H.M.S. *Romney* for New York to make a valuation of the land. " For the business," he observes, " I was perhaps not unqualified, for the settlement of colonies had been with me long an object of study, in which, without being able to assign any reason for the bias, I had from boyhood ever a hankering." [3]

[1] *Memoirs of a Literary Veteran*, iii. 59.

[2] *Autobiography*, i. 278.

[3] *Ibid.*, i. 309.

Before leaving home in the beginning of January 1825, Galt had hastily completed the manuscript of another novel, which he left with his friend "Delta" to see through the press. "It is not," writes the author, "a favourite with myself," and his readers will hardly be surprised at that. *Rothelan* shares with *The Spaewife* the radical defect, as its author deems it, that "it resembles too much the compositions of Sir Walter Scott, with whom I never placed myself consciously in any rivalry." [1] The likeness, however, is not so remarkable as to have occasioned him any qualms of conscience. *Rothelan*, he reminds us, was written in the intervals of business—perhaps a sufficient excuse for its shortcomings in point of pleasure. *The Bachelor's Wife*, also of 1824, is a mere compilation of literary odds and ends, and calls for no comment.

Things were not going smoothly with the land scheme, and pending long controversy between the Commissioners, the Canadian clergy—who opposed the project—and the Colonial Office, Galt found time to write *The Omen*, which Dr. Moir thinks "the most beautiful of his productions." [2] A gloomy and fantastic tale, it is quite alone among Galt's work, and being published anonymously, was not recognised as his. Even Scott, who got £10 from Blackwood for reviewing it, favourably and at length, in "Maga," failed to spot the author: "it is Lockhart, or I am strangely deceived." [3]

Summoned back to Scotland by the fatal illness of his mother in 1826, Galt, as a relief from Canadian worries and domestic care, began another Scottish story, *The Last of the Lairds*. There is something ominous in the title: for though he was to write many more books, this was indeed to be the last of his inimitable lairds, whose company so delighted his contemporaries, and in whom he has perfectly preserved for their descendants the figures of a vanished race. He had intended it to be an autobiography in the

[1] *Literary Life*, i. 262.

[2] *Memoir*, p. xxxviii.

[3] *Journal*, i. 132 *n.*, 203, 215.

manner of the *Annals* and *The Provost*, but changed his mind and told it in narrative form. His object, as he wrote to Moir in October 1826, on the eve of his return to Canada, was "to delineate a set of persons, of his own rank, that such an obsolete character as a West Country laird was likely, about twenty years ago, to have for acquaintance and neighbours." [1] The book was then barely finished: "perhaps a sentence or two may be wanting at the conclusion; if you think so, supply it," is Galt's characteristic message. One of the best and brightest things he ever wrote, and he leaves it to be completed by another hand! That even Galt's indifference to the issue of his pen was not proof against "Delta's" dealings with the MS. appears from his letter of 22nd February 1827 on reading the published book. "I see you have put in Blackwood's story of the watch, but I am not sure of the effect; and I wish the Renfrew uproar had been retained." [2] It is plain that Moir had been intromitting, and vitiously at that, with the concluding chapters. Why Galt, who must have seen how good it was, did not finish it himself, as Miss Knag would say, is to me a mystery indeed. The book, allowing for its smaller scale, presents as fine pictures of old-fashioned folk and habits as are to be found even in *The Entail*. The descriptions are admirable; such, for instance, as those of the house of Auldbiggings with its old-world garden, and of Mrs. Soorocks' cupboard or "dining-room press," which afforded to Mr. Crockett so much joy. Of the virtues of that matron it is difficult to speak without hyperbole. Blackwood expressed himself so offended with her—"as if she had been an actual being"—that Galt was highly flattered. Beset by an itch for interfering in her neighbours' affairs, her finger is in every pie—"it is our duty to help ane anither in this howling wilderness"; she claims the whole credit when, in spite of her meddling, things happen to go right, and repudiates all responsi-

[1] *Memoir*, p. xl.

[2] *Ibid.*, p. xlii.

bility when, under her guidance, they go wrong. If in energy of epithet, richness of irrelevance, and causticity of wit she is surpassed by the matchless Leddy Grippy, and lacks the force of character which distinguishes that amazing dame in her dealings with lesser mortals, Mrs. Soorocks is unquestionably a near relation, and a member of that sisterhood which in the English branch includes such choice spirits as Mrs. Nickleby and Mrs. Wilfer. The laird himself, Malachi Mailings, Esq., of Auldbiggings, who quietly submitted to his first wife " till it pleased Providence to quench her " ; the ladies of Barenbraes, Miss Shoosie and Miss Girzie Minnygaff, those excellent virgins, in one of whom the laird finds unexpected consolation ; Dominie Tansie and the anonymous busybody who tells the tale ; Jenny Clatterpans and the Laird's Jock ; all are as quaint, original and true to life as any of Galt's more admired creations. And if Mr. Rupees, the Nabob, resembles Mr. Peregrine Scrogie Touchwood in more respects than in having made a fortune in the East, well, that is his only fault, if fault it be. Then there is the roup of the superiority of Auldbiggings, the most satisfactory auction scene in fiction, always excepting, of course, that supreme one in *The Wrecker*. I linger thus lovingly upon this delightful book, both on account of its so neglected charms and because it is, as I have said, the last manifestation of Galt's genius.

When Galt returned to Canada to organise the operations of the Company he knew he had not his troubles to seek ; but he persevered until he became superintendent, and directed the settlement of its lands. Sir Peregrine Maitland, the Governor of the Province, was from the first inimical. The second volume of the *Autobiography* deals at length with plans and projects carried through despite unnumbered obstacles, of which red-tape entanglements were not the least vexatious. The chapter headings include " Troubles," " Perplexities," and " Quarrels "— painful reading ; but there is one note of victory, " The

Founding of the City of Guelph," which was at once Galt's triumph and consolation. Financially, however, the Company was not at first successful; the directors with singular ingratitude laid all the blame on their superintendent's "extravagant" schemes, and in the end he was superseded and returned to England with a full heart and empty pockets, to prosecute his just claims against his unconscionable colleagues. After three years' indefatigable labours in the Company's interest all he brought back was the goodwill of the settlers and the satisfaction of having established a town. He lived to see his faith and works justified and the Company flourish, to the enrichment of everyone concerned but himself.

There is a sad resemblance between Galt's closing years and those of his great contemporary, both labouring at ungrateful tasks beneath the burden of disease and debt. No sooner was it known that his connection with the Company had ceased than the pecuniary Philistines were upon him. The least circumcised of the crowd was Dr. Valpy, his sons' tutor, who, for some £80 of school fees due, cast him into prison. "The learned and reverend creditor," says Gillies, "did not receive one sixpence, and Galt was irretrievably injured in mind, body and estate." [1] In these dismal circumstances he resumed his pen. "I have begun *Lawrie Todd*," writes Sir Walter on the 11th July 1830, "which ought, considering the author's undisputed talents, to have been better. . . . Galt, poor fellow, was in the King's Bench when he wrote it. No whetter of genius is necessity, though said to be the mother of invention." [2] Scott could speak from bitter experience. *Lawrie Todd, or The Settlers in the Woods* was designed to give "a just account of backwood operations." The author remarks in it a disposition to be didactic greater than he had once thought consistent with a mere fiction.[3] In this case first thoughts were best. *Southennan*, pub-

[1] *Memoirs of a Literary Veteran*, iii. 60.

[2] *Journal*, ii. 348.

[3] *Literary Life*, i. 298.

lished the same year, is a tale of Scotland and Mary Stuart; but Galt's Royal Mary would be more at home in the halls of Baker Street than in those of Holyrood; she has little in common with the animate princess of *The Abbot*. "While engaged in writing *Southennan*," he says, "I became occasionally tired of literature." The sensation is transmitted to the reader. In *Bogle Corbet, or The Emigrants* (1831) the theme is again colonial. It was written, says the author, to his publisher's order—"like to an upholsterer for a piece of furniture," [1] and the result is what one should expect. The book was too patently instructive to be popular as a novel. Galt, however, continued to pour forth works: *Stanley Buxton*, *The Member*, *The Radical*, and *Eben Erskine* followed each other in rapid succession, as well as his *Life of Byron* and *Lives of the Players*, all published within a couple of years. No wonder he describes himself at this time as "sick of composition." [2]

Since his imprisonment his health had been going from bad to worse. For Carlyle, meeting him at dinner at Fraser's, to whose *Magazine* he was a contributor, Galt had a "sort of wae interest"; [3] the Sage wished to see him again: "a broad gawsie Greenock man, old-growing, lovable with pity," is his word of him. Soon afterwards Galt suffered his first paralytic shock, the harbinger of death. In Mrs. Thomson's interesting reminiscences [4] we have a happy picture of Galt's home life at Chelsea and in Tavistock Place before he left England—"That Canada Company!"—and a moving account of his later days at Barnes Cottage, Brompton, "the grave of London." Day after day his ailments increased, and repeated strokes of palsy took from him first the use of one limb, then of another. His mind became affected: his speech faltered, his memory failed; but he bore up bravely against this

[1] *Literary Life*, i. 311.
[2] *Autobiography*, ii. 177.
[3] "Journal," 21st January 1832.
[4] *Recollections of Literary Characters*, 1854, ii. 99–116.

sea of troubles, and uttered no word of complaint. The devotion of his wife, the well-doing of his sons, who had gone to share in the prosperity of that province for which their father had spent his all [1]—these were his support and comfort. Unable to hold a pen, he continued to dictate as copiously as he used to write, magazine articles and tales, some of which were afterwards published in *Stories of the Study*, the *Autobiography*, and the *Literary Life and Miscellanies*, his last work. Then in 1834 he left London for Edinburgh, where he stayed in Hill Street, attended by Dr. Moir. Having seen the *Literary Life* through the press he went to Greenock, to the house of his sister. "Delta's" professional eye could trace in his friend's letters "his gradual decline into helpless, hopeless debility." [2] The end came on 11th April 1839, and in the family burial ground in the new cemetery of Greenock John Galt found peace at last in his resting grave.

III

It has been well observed that a delightful book, to be entitled "The Beauties of Galt," might be made of judicious extracts from his best novels.[3] The work of no master-writer of fiction with whom I am acquainted exhibits the like glaring disparities in value, and the proportion of chaff is unfortunately so great as to obscure for the casual reader the transcendent quality of the grain. Such a volume of specimens, doing for Galt what Charles Lamb did for the Elizabethan dramatists, should it ever appear, would, I take it, draw largely and profitably on *The Entail*.

That wonderful book (though I don't suppose Mr. Galsworthy ever read it) is the forerunner of *The Forsyte Saga*, which it anticipates in its motif: the sense of property, as developed to devastating effect in three generations of

[1] Sir Alexander Tilloch Galt (1817–1893) rose to be Minister of Finance for the Dominion; Thomas Galt (1815–1901) became Chief Justice of the Court of Common Pleas, Ontario.

[2] *Memoir*, p. cviii.

[3] *Recollections of Literary Characters*, ii. 116.

The Author of "The Entail."

(From a drawing by Daniel Maclise.)

one family. The possessive instinct which animates the Forsytes is the mainspring of the Lairds of Grippy. Another classic with which *The Entail* invites comparison is the *Eugénie Grandet* of Balzac. Both books are studies of acquisitiveness considered as one of the fine arts, but Claud Walkinshaw's ruling passion, disastrous as it proves to himself and to all who come within its scope, is something very different from the gold-greed of the old vine-grower. In itself it is honourable and praiseworthy enough: the desire to redeem the lands of his forefathers, lost by their misfortune and folly, and to re-establish a fallen house. Unhappily for all concerned, holding as he does that the end justifies the means, Claud's sacrifices to the Moloch of ancestral pride demand many innocent victims, and even involve the offering up of his first-born son, another Isaac, on the family altar. The character of Claud further differs from that of Bonhomme Grandet, whose fixed idea, amounting to virtual mania, leaves neither wish nor room for repentance, in that he sins deliberately against the light, and his struggle to subdue his better nature is the true stuff of tragedy. He wilfully abandons in her need his devoted old nurse, to whose care he owed so much, for fear his heart should relent "and gar him gie her something out o' the gathering" he hoarded for the redemption of his lands; he makes a marriage of interest with a woman for whom, to say the least, he has no affection — "Heaven may forgie the aversion I had to her, but my own nature never can!" —he disinherits his favourite and eldest son, so as to settle his estate on the "haverel," Watty, because the younger brother is heir to another property. And in all this, as he confesses, "the angel of the Lord ceased not, by night or by day, to warsle for me; but I clung to Baal, and spurned and kicked whenever the messenger of brightness and grace tried to tak' me away."[1] Well might his worthy

[1] *The Entail*, i. 277. This and subsequent references are to the *Works of John Galt*, ed. Meldrum. 8 vols. Blackwood, 1895–1896.

friend, the minister, exclaim: "Oh, Mr. Walkinshaw! but ye hae been a dure sinner."

"If a man will paint from nature," Scott once told Lockhart, "he will be most likely to interest and amuse those who are daily looking at it." Therein resides the charm of *The Entail*. All these people—with one exception afternoted—are drawn from life; they live and move and have their being by the grace of Galt; they are "kent folk," old neighbours and acquaintances, whom he knows as well as if he had made them; they speak a common tongue, cling to the same habits, walk together in the ancient ways; their countryside is that with which from earliest youth he was himself familiar. Here are no ideal portraits, no colours of romance; characters and scenery alike are real. For Galt was as truly a *naturaliste* as the late respectable M. Zola, but it was "nature" with a difference. He did not seek for her in Blue-books and statistics, neither did he invade her privacies with a searchlight, nor see behind each bush the hoofprints of *la bête humaine*. No; and he possessed the talisman which Zola so conspicuously lacked: a sense of humour. Further, his vision was not impaired either by such bitter pessimism as informs those grim and powerful studies of west-country life, *The House with the Green Shutters* and *Gillespie*, or by the rosy insincerities of the Kailyard school, to which they supply a wholesome antidote. His common folk are neither saints nor devils, but merely human beings of like passions with ourselves.

Mrs. Claud Walkinshaw, *née* Miss Girzy Hypel, by Scots custom and courtesy Leddy Grippy, is as incomparably comic as she is truly lifelike. "One thinks one knows her," said Lord Blessington, politest of peers, at Lord Ripon's dinner-table; and Byron, no mean judge, remarked that "the portraiture of Leddy Grippy was perhaps the most complete and original that had been added to the female gallery since the days of Shakespeare."[1] These noble

[1] Moir's notes to *The Entail*, 1842, p. 400.

tributes are fortified by the encomiums of the literary critics, Gifford, Jeffrey, Wilson, Mackenzie, and Scott, who, probably agreeing in little else, were unanimous in her praise. From our first meeting with this inestimable dame when, on the arrival of her wooer, somewhat damaged by his unwonted equestrian experiences—" Twa dyers wi' their beetles couldna hae done me mair detriment "—she brings for his greater ease a " cod " from her virgin couch, observing, as she pats it into plumpness, " Come round here, Mr. Walkinshaw. I trow ye'll fin' this a saft, easy seat. Weel do I ken what it is to be saddle-sick mysel'. Lordsake ! when I gaed in ahint my father to see the robber hanged at Ayr, I was for mair than three days just as if I had sat doun on a heckle " [1]—from that moment, I say, until the final expression of her humour in her last will and testament, she continues throughout the tale a well-spring of spontaneous mirth.

After starting in business as a travelling merchant or packman, Claud rose to be a clothier with a shop in Glasgow, and at length was able to purchase the farm of Grippy, part of the patrimony of his sires. He was then aged forty-seven ; it was high time to begin the line by which an entail should continue the ancient blood of the Walkinshaws of Kittlestonheugh ; so, after sundry failures in other quarters, he addressed himself successfully to the mature and unsought daughter of his kinsman, Malachi Hypel, laird of the Plealands. The marriage took place, and in due season Leddy Grippy, so far justifying her father's warranty of her as a capital wife, presented her husband with an heir-male, named Charles. The Leddy was an only child, and Claud proposed that the two properties should be settled on his son, but to his disappointment his father-in-law refused to entail the Plealands on Charlie, unless he should assume the name of Hypel. To this, of course, Claud would not agree, and he executed in Charlie's favour a deed of entail of the Grippy. On the

[1] *The Entail*, i. 35.

birth of a second son, Walter, however, it was arranged that the Plealands be settled on him, subject to the same condition. Time passed, the laird continued to lay up for himself treasure upon the earth, while his lady contributed to the family happiness a daughter, Margaret, and a third son, George.

Charlie is a splendid boy, the only human being for whom his father cares. Watty, his mother's favourite, though amiable enough, is half-witted. When old Hypel dies—Galt gives him a gorgeous funeral—it appears that by a flaw in the terms of the deed, while Watty succeeds to the Plealands, he is not bound to take his grandfather's name. Hence is Claud assailed by the temptation to disinherit Charles in favour of Walter, so as "to join the Grippy in ae settlement wi' the Plealands," with the prospect of making an excambion or exchange of the latter for the farms of Divethill and Kittleston, which with the Grippy had composed the heritage of his fathers. Of the sinfulness of his project Mr. Kilfuddy, the minister, when consulted by Claud, duly admonishes him:

> "Hech, man! an' ye're deluded on to do this thing, what a bonny sight it will be to see your latter end, when Belzebub, wi' his horns, will be sitting upon your bosom, boring through the very joints and marrow o' your poor soul wi' the red-het gimlets o' a guilty conscience! . . . Sic thoughts are the cormorants that sit on the apple trees in the devil's kailyard, and the souls o' the damned are the carcasses they mak' their meat o'."[1]

Claud, thus forcibly rebuked, abandons for the time his plan; but the marriage of Charlie, against his express command, with the dowerless daughter of a ruined laird, confirms him in his purpose, and The Entail is privately effected—despite the protests of his law agent, Mr. Keelevin, who though a writer is an honest man—first on the heirs-male of Walter; whom failing, on those of George; whom failing, on those of Charles; and failing these, on the heirs-

[1] *The Entail*, i. 67.

general of Margaret. From that day Claud's peace of mind is gone ; the secret wrong that he has done his first-born hardens his heart against Charles, while his disgust with the fatuity of Walter is aggravated by the Leddy's constant charges of favouritism in regard to the elder son : " for Charlie was ay your darling chevalier." The scene at family worship when Claud, " waling " the chapter to be read, lights on the 27th of Genesis, 32nd verse, and believes himself warned by the oracle of God, is a very striking one. But he perseveres in his design, and his next move is to bring about a marriage between his half-witted heir and the heiress of a neighbouring laird, Mr. Bodle of Kilmarkeckle. This blithe old gentleman, with his philosophical hobby for finding analogies between divers sorts of snuff and the natures of beasts and birds, is only less delightful than his daughter Betty—the freshest and most engaging damsel in Galt's garden of girls. Watty's courtship of this bouncing lass is highly diverting, and the celebration of their nuptial rites is described with infinite gusto. The skill with which the lovable qualities of the " daft " bridegroom are brought out is beyond all praise. Claud, by payment of £100, secures Watty's consent to an excambion of the Plealands for the two farms that made up the ancient estate of Kittlestonheugh ; these now fall under the entail, and his conquest of the whole property is complete. Margaret, the daughter, marries Mr. Milrookit, the laird of Dirdumwhamle, a gawsie widower with fifteen children, whom the Leddy calls a waster of wives, he having already buried two. George, the youngest son, is placed in a mercantile house in Glasgow ; Charles, who is in charge of the paternal shop, is now the father of a boy and girl.

Watty's marriage turns out well ; he is devoted to his wife, in whose capable hands he has much improved. But Betty Bodle's death in giving birth to a *daughter* not only wrecks her husband's happiness, it destroys Claud's cherished scheme ; a female heir was a contingency which

he had not envisaged, and he perceives in the event the chastisement of Heaven. Unless Watty should marry again and have a son the reunited estate of Kittleston-heugh must be once more disjoined. Watty's unstable intellect is much shaken by his wife's death. He declines to attend the burial and is wholly taken up with his child, whom he calls his "wee Betty Bodle," maintaining that she is a reincarnation of his lost love. As even a marriage between Charlie's son and Watty's daughter would not serve Claud's purpose—for the heirs-male of George have the preference in the entail—he decides that George shall marry forthwith. A suitable match is found, with results which will presently appear. Meanwhile Mrs. Milrookit has added to Dirdumwhamle's "sma' family" a son, named Walkinshaw, familiarly, Walky.

Charles has got into debt, the allowance given him by Claud being insufficient for the growing needs of his young family. He accordingly consults Mr. Keelevin as to raising a loan on his reversionary interest in his father's estate. So great is the shock with which he learns that he has been robbed of his birthright and cut off from the succession that he has an attack of brain fever. Claud, conscience-stricken, tries to get Watty to sign a deed making some provision for Charles and his children out of the estate; but the natural refuses: "I'll no' put hand to ony drum-head paper again," he declares, "for fear it will wrang my wee Betty Bodle." Even the vituperation of the Leddy, as artfully inflamed by Claud—she deems her own interests involved—fails to move him, and from that time her affection for her favourite is sensibly diminished.

"The frowns and menaces of Heaven" which the old man had come to dread continue to pursue him. George's wife gives birth to twin *daughters*, and the tidings of Charlie's death come as a final blow. Claud bows his head beneath these judgments; he sends for Mr. Keelevin, to whom he says, "I hae nae langer part, interest nor portion in the concerns of this life; but only to sign ony paper

that ye can devise, to restore their rights to the twa babies that my idolatry has made fatherless." After receiving comfort and counsel from the minister to whom he confesses his sin, Claud attends the funeral and makes his peace with the bereaved family. Nothing now remains to be done but to execute a bond of provision in their favour which, owing to Circuit business, Mr. Keelevin has not yet had time to prepare; but on the day appointed Claud is smitten by a paralytic stroke. He is still conscious when Mr. Keelevin arrives with the deed, and is dreadfully eager to sign it; the benevolent lawyer calls for pen and ink, meaning to guide his hand, when Leddy Grippy bursts into the room.

"What's wrang noo?" she cries. "What new judgment has befallen us? Whatna fearfu' image is that, like a corpse out o' a tomb, that's making a' this rippet for the cheatrie instruments o' pen and ink, when a dying man is at his last gasp?"

"Mrs. Walkinshaw, for Heaven's sake be quiet! Your gudeman," replied Mr. Keelevin, opening the hood of his trotcosey and throwing it back, taking off, at the same time, his cocked hat, "Your gudeman kens very weel what I hae read to him. It's a provision for Mrs. Charles and her orphans."

"But is there no' likewise a provision in't for me?" cried the Leddy.

"Oh, Mrs. Walkinshaw! we'll speak o' that hereafter; but let us get this executed aff-hand," replied Mr. Keelevin. "Ye see your gudeman kens what we're saying, and looks wistfully to get it done. I say, in the name of God, get me pen and ink."

"Ye's get neither pen nor ink here, Mr. Keelevin, till my rights are cognost in a record o' sederunt and session."

"Hush!" exclaimed the doctor.

All was silent, and every eye turned on the patient, whose countenance was again hideously convulsed. A troubled groan struggled and heaved for a moment in his breast, and was followed by short quivering through his whole frame.

"It is all over!" said the doctor.[1]

Now let us hear Leddy Grippy's version of the scene as given by her in after years to the disinherited Jamie.

[1] *The Entail*, i. 299-300.

"Had your grandfather been spare't, there would hae been a rectification. But, wae's me, the Lord took him to himsel'; in the very hour when Mr. Keelevin, the lawyer, was doun on his knees reading a scantling o' a new last will and settlement. Eh! Jamie, that was a moving sight—before I could get a pen to put in your dying grandfather's hand, to sign the paper, he took his departal to a better world, where, we are taught to hope, there are neither lawyers nor laws." [1]

After the Laird's death the interest is skilfully transferred to the Leddy. Hitherto he has held the stage, and her part was relatively a minor one, but now she begins to put forth in ever-increasing richness and profusion her flowers of mind and speech. Mere quotations of her sayings torn from their context could do no justice to her greatness: she herself to be appreciated must be seen and heard, and that can only be in Galt's brave pages. To give an adequate account of her would be to rewrite the book, and it is impossible in the space at my disposal to convey to the reader unhonoured by her acquaintance any conception of one to whom, though first known to us as an unblushing bride and parted from as a venerable grandmother, the familiar tribute to Cleopatra's fadeless charm might equally apply.

Watty continuing firm in his refusal to provide for Mrs. Charles and her children, George, who is next heir of entail, conceives the notion that if his brother were found legally irresponsible he himself might obtain control of the estate. The setting aside of Watty also commends itself to the Leddy, who thinks that the management of the property would in that event devolve on her. George, by the exercise of much craft and subtlety, attains his end, and poor Watty, who has already lost his "wee Betty Bodle," is after due inquiry judicially pronounced incapable of conducting his affairs. "Am I found guilty?" he asks the presiding Sheriff, "O surely, sir, ye'll no' hang me, for I couldna help it?" He has been, as his mother piously observes, "weighed in the balance o' the

[1] *The Entail*, ii. 169.

Sheriff and found wanting; and his vessels o' gold and silver, as I may say in the words o' Scripture, are carried away into captivity." But her complacency is turned to dismay when George, assuming the entire charge, enters into possession of the house and lands, while she, as "judicious curator" of the *fatuus,* is relegated to a flat in Glasgow, being allowed but £75 a year for his maintenance. Thus is the Leddy hoist with her own petard, and the ingenious George, by granting his sister-in-law an annuity of £50, gains general approbation.

Upon this princely revenue Mrs. Charles and her children remove to the village of Camrachle, where for our sins we are introduced to the minister's wife, Mrs. Eadie, a lady of Highland blood, aggravated by the gift of second sight. This Ossianic female is Galt's one mistake; she is several sizes larger than life, and her supernatural pretensions are only more boring than her pride of race. But she has intelligence enough to adopt a young relation, Ellen Frazer, between whom and James Walkinshaw, the son of Charles, friendship ripens into love. Now Uncle George has set his heart on marrying Jamie to his surviving child, Robina, who in turn is secretly resolved to wed none but her other cousin, Walky Milrookit, the son of her Aunt Margaret, and the rest of the tale is much concerned with the love affairs of this new generation. Under the shrewd management of George the Kittlestonheugh estate is greatly improved and increased in value, his business is flourishing, but he has lost one daughter, his wife is a confirmed invalid, and his success is marred by the knowledge that after his death the property will pass to James. Hence his anxiety for the match. He takes his nephew into his counting-house and shows him every kindness, for which the lad, suspecting no interested motive, is duly grateful. The Leddy approves the project: "Geordie's a far-before-looking soothsayer, and a Chaldee excellence like his father," she remarks. Robina, too, is her father's child; to gain her private ends she professes

willingness to marry Jamie, were he not devoted to another. "Lassie, lassie!" exclaims the Leddy, in discussing the question,

"If ye live to be a grandmother like me, ye'll ken the right sense o' a lawful and tender affection. But there's no sincerity noo like the auld sincerity: when me and your honest grandfather, that was in mine, and is now in Abraham's bosom, came thegither, we had no foistring and parleyvooing, like your novelle turtle-doves, but discoursed in a sober and wiselike manner anent the cost and charge o' a family; and the upshot was a visibility of solid cordiality and kindness, very different, Beenie, my dear, frae the puff-paste love o' your Clarissy Harlots."[1]

Meanwhile James, finding that his uncle's patronage is contingent upon his marrying Robina, declines to accept further favours, and obtains through the family interest of Mrs. Eadie a commission in the army. Robina confesses to her grandmother her affection for her cousin Walky. The Leddy, never having forgiven George his treatment of her in the affair of Watty—who, by the bye, has died of a broken heart—is not averse from paying him back in his own coin. She is also moved by the mistaken idea that Robina has already committed herself beyond retreat.

"Na, if that's the gait o't, Beenie, I hae nothing to say but to help to tak' up the luppen-steek in your stocking wi' as much brevity as is consistent wi' perspicuity, as the minister o' Port-Glasgow says."

"What do you mean? To what do you allude?" cried the young lady, terrified.

"Beenie Walkinshaw, I'll be calm; I'll no lose' my composity. But it's no' to seek what I could say, ye Jerusalem concubine, to bring sic a crying sin into my family. O woman, woman! but ye're a silly nymph, and the black stool o' repentance is ouer gude for you!"

Robina begs her to spare such horrible suspicions—

"Spare!" interrupted the Leddy, with the sharpest tone of her indignation. "An' ye were my dochter as ye're but my grand-dochter, I would spare you, ye Israelitish handmaid and randy o' Babylon! But pride ne'er leaves its master without a fa'—your father's weel

[1] *The Entail*, ii. 55.

serv't: he would tak nane o' my advice in your education, but, instead o' sending you to a Christian school, got down frae Manchester, in England, a governess for Miss, my leddy, wi' gumflowers on her head and paint on her cheeks, and speaking in sic high English that the Babel babble o' Mull and Moydart was a perfection o' sense when compar't wi't." [1]

Disabused as to what she deems her "very natural delusion," the Leddy urges a private and immediate marriage as the best solution of the difficulty. She scouts the scruples of Mr. and Mrs. Milrookit, who have called with their son Walky, and though eager for the match, fear the wrath of George. "My word, Meg," exclaims her mother, "but t'ou has a stock o' impudence, to haud up thy snout in that gait to the she that bore thee!" So, overruling all objections, she sends for the minister and the knot is tied forthwith. The description of the wedding feast,[2] served in the Leddy's parlour and partaken of by the whole family, including George, who knows nothing of what has happened, is conceived in Galt's richest vein of humour. Their hostess rises nobly to the occasion and breaks even her own record for ludicrous and complex loquacity. But when before they part the truth comes out, George is neither to hold nor to bind; he casts off his daughter for ever, and rushes from the house, vowing not to speak to one of them again. The parent Milrookits wash their hands of the business, so the unfortunate Leddy has to keep the young couple till such time as George should "come to himsel'." She repudiates all responsibility for the marriage, complains loudly of the way she has been treated by everyone concerned, and six weeks of her guests being as much as she can stand: "Ae frien' after another calling, glasses o' wine ne'er devauling; the corks playing clunk in the kitchen frae morning to night, as if they had been in a change-house on a fair-day": she sends the youthful pair on a visit

[1] *The Entail*, ii. 120–121.

[2] *Ibid.*, chapters lxxvii. and lxxviii.

to Dirdumwhamle, there to remain until she sees fit to invite them back again.

George's ailing wife being now dead, he determines, once his nephew is out of the way, to supplant him in the affections of Ellen Frazer. To this anti-avuncular course he is moved in part by spite and by a congenital craving for heirs-male. Meanwhile, as the time is not yet ripe, he joins some friends on a yachting cruise to the Orkneys. James, who has spent the summer recruiting for his regiment at Glengael, the seat of Mrs. Eadie's cousin, Mr. Frazer, accompanies his host and Ellen on an excursion to Caithness. While they are visiting the ruins of Girnigo Castle a storm arises and a vessel is seen driving towards the cliffs. This is the sloop in which, leaving his companions at Kirkwall, George has embarked for Thurso on his way home, and the party are horrified to recognise on the doomed ship's deck the figure of their kinsman, who perishes in their sight, beyond the possibility of aid. Galt was justly proud of this storm-piece, which is a picture not inferior in sublimity and power to the more famous gales of *The Antiquary* and *The Pirate*; but the stretch of the long arm of coincidence which the catastrophe involves, though doubtless effective, is as "steep" as the contributory cliffs.

George thus in arbitrary fashion disposed of, Robina and her husband come into their kingdom. Mr. Keelevin is dead; nobody knows that, in terms of the entail, James should succeed to the property, except Milrookit and his son, who are advised of the fact by Mr. Pitwinnoch, their law agent. It is agreed, however, to take the risk, Robina being ignorant of the fraud. Her husband, knowing himself in wrongful possession of the estate, is divided between fear and avarice. He stops the annuity to Mrs. Charles, which so incenses the Leddy that she instructs Pitwinnoch to proceed against the "meeserable penure pig" for £1000, in name of six weeks' bed, board, and washing supplied by her to the happy pair. The lawyer persuades young

Milrookit to compromise, for they dare not face any inquiry as to his title; so £200 are offered in full of all claims, which the Leddy indignantly refuses to accept, threatening to put the matter into the hands of one Whitteret, who had been Mr. Keelevin's clerk. So alarmed are the plotters that the £1000 are actually paid, to the huge delight of the Leddy, who attributes her success to an hereditary aptitude for the law, her father having been in his day "a deacon at a plea," and the money is invested for behoof of Mrs. Charles. This remarkable transaction reaches the ears of Mr. Whitteret; he tells the story at a legal dinner-party in Edinburgh. One of the guests, Mr. Pilledge, W.S., skilled in the discovery of dormant claims and rightful heirs, suspects some flaw in the succession; an inspection of the deed at the Register Office confirms his hopes, and he sets out for Glasgow to warn Milrookit and to counsel him to resist. How Pilledge, directed to the Leddy's house, is outwitted by that redoubtable dame, fresh from the triumph of her great bed and board plea; how she intimidates Pitwinnoch, and by what she calls her "dark sentence o' legality," forces Walky to surrender the estate; all this must be read in the book itself.[1] James is now in a position to marry Miss Frazer, whose prophetic relative, Mrs. Eadie, "sinks into rest in the visionary beatitude of her parental solitudes."

But, alas, in attending the wedding festivities the venerable heroine catches a fatal cold. Her last illness, enlivened by her frustration of the attempts of the shame-

[1] The legal portraits contained in *The Entail* are of peculiar interest. For the writers—Mr. Keelevin, Thomas Whitteret, and the apprentice Willy Keckle, are each in their several ways worthy members of their great profession. But Gabriel Pitwinnoch and Mr. Pilledge are examples of the sort of practitioner from whom the popular prejudice against lawyers derives some sanction. For the advocates—"yon awfu' folk wi' the cloaks o' darkness and the wigs o' wisdom frae Edinbro': they are costly commodities"—Mr. Threeper, counsel for George Walkinshaw in the cognition of Watty, is a type of pleader that, unhappily, is always with us; Mr. Queerie, however, who represents the *fatuus* and the presiding Sheriff, do no discredit to the Parliament House.

less Milrookits upon her gold watch and silver teapot, is soothed by the attentions of Mrs. Charles and her other grandchildren. "I feel the clay-cold fingers o' Death handling my feet," she tells her daughter-in-law; "so when I hae settled my worldly concernments, ye'll send for Dr. De'ilfear, for I wouldna like to mount into the chariots o' glory without the help o' an orthodox." And so, "to the great regret of all surviving friends," as the *Glasgow Courier* records, this incomparable woman goes hence and is no more seen. The obsequies of our old friend are as admirably described as those of Mrs. Margaret Bertram of Singleside. Galt laments that so many people should be at the expense and trouble of making wills, and yet never enjoy what passes at the reading of them; and surely no one would have relished this scene more than the Leddy herself. A will is found, bequeathing all her property to her daughter, Margaret, and the Milrookits, old and young, are eloquent in her praise; but Jamie produces one of later date in favour of Mrs. Charles and her daughter.

"As for my two grateful grandchildren, Walkinshaw Milrookit and Robina, his wife," continued the spirit of the Leddy to speak in the will, "I bequeath to them and their heirs for ever, all and haill that large sum of money which they still stand indebted to me, for and on account of bed, board, and washing, of which debt only the inconsiderable trifle of one thousand pounds was ever paid." [1]

Thus is the saving grace of humour superior to mere mortality.

* * * * * * * *

I am fully conscious that to lovers of this fine tale the foregoing argument may seem superfluous. It is not, however, designed for them, but for their less fortunate fellow-readers, to whom, in another sense than that applied to Scott, Galt is still "The Great Unknown." Having, I trust, stimulated in such a taste for his quality, as to

[1] *The Entail*, ii. 311.

further satisfaction thereof I regret that, in the Leddy's phrase, "I'm obligated not to be beautiful on the mountains." Most of his books are, scandalously, out of print and hard to come by; but *The Entail*, with an excellent introduction by Mr. John Ayscough, may be had in the convenient format of "The World's Classics," at a price which, even in these extravagant times, is not prohibitory. It is to be hoped that Messrs. Blackwood will some day re-issue their handsome edition of his tales, edited by Mr. Storrar Meldrum, and that it may even be extended, so as to include, at least, *The Steamboat* and *Ringan Gilhaize*. For the rest, the propriety of reprinting them may be left to the discretion of the publishers. I don't think that Galt's reputation will suffer by their continuing scarce.

"N.B.—These are all I recollect," is Galt's characteristic note on the list of his published works—over sixty volumes—prepared by himself for his *Autobiography;* and in the *Literary Life* he mentions that he had omitted two long novels! "It has only been when I had nothing else to do that I have had recourse to this secondary pursuit," is the curious apologia he makes for his art;[1] and again, "In looking back through the long vista of a various life, I cannot upbraid myself with having neglected one task, or left one duty unperformed, either for the thrift or fancy work of letters."[2] As to posthumous renown "and all that sort of thing," his vaunt is this: "But when my numerous books are forgotten I shall yet be remembered."[3] Galt was not among the prophets. Though doubtless, and justly, his fame still stands high in Ontario, it is not the founder of Guelph nor the name-father of Galt City whose memory is green to-day in the hearts of his countrymen at home. It is the story-teller, not the Empire-builder, that we love; he with whom we have spent so many happy hours in hospitable and

[1] *Autobiography*, i. 85.
[2] *Ibid.*, ii. 201.
[3] *Literary Life*, i. 358.

homely dwellings, in quaint streets of old-time towns and villages, in pleasant bygone footways and long-forgotten places of the fields; he who has made us free of so rare a company of friends; who never fails to charm us by his playful fancy, to gladden us in the genial warmth of his humour, and to make us wise with the knowledge of his kindly wisdom: the great-natured, big-hearted author of the *Annals* and *The Entail.*

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